



ROMA IN THE REPUBLIC OF SERBIA

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ABBREVIATIONS AND ACRONYMS

CAHROM _____ Ad Hoc Committee of Expert on Roma Issues

CEP _____ Commissioner for Protection of Equality

EC _____ European Commission

ECRI _____ European Commission against Racism and Intolerance

ERRC _____ European Roma Rights Centre

EU _____ European Union

IDP _____ Internally Displaced People

LGBT _____ Lesbian, Gay, Bisexual and Transgender persons

MICS _____ Multiple Indicator Cluster Survey

NES _____ National Employment Service

NGO _____ Non-Governmental Organisation

UNDP _____ United Nations Development Programme

UNESCO _____ United Nations Educational, Scientific and Cultural Organisation

UNHCR _____ United Nations High Commissioner for Refugees

UNICEF _____ United Nations International Children's Emergency Fund

WB _____ World Bank



1. ROMA IN SERBIA: OVERVIEW

1.1. DEMOGRAPHICS

According to the 2011 population census, 147,604 Roma live in Serbia. The largest share (39%) lives in Southeast Serbia. The municipalities with the largest share of Roma are Kostolac (19.5%), Bojnik (14.9%) and Vranjska Banja (14.4%).¹ In addition, 997 Ashkali and 1,834 Egyptians live in Serbia, primarily Internally Displaced Persons from Kosovo.

Due to several reasons, the actual number of Roma in Serbia is difficult to determine. The majority of Roma, irrespective of the country they live in, do not disclose their ethnicity in census-taking. In addition, tens of thousands of Roma left Serbia in the last couple of years, asking for asylum in Western Europe while others might have been returned in the meantime, which further complicates the assessment of the actual number of Roma living in Serbia. Estimates of the actual number of Roma in Serbia range from 250,000 to 600,000.² Roma in Serbia are a very diverse group and can be differentiated according to

traditional group affiliations, religion (primarily Serbian Orthodox and Islam), (first) language (Romani, Serbian, Albanian, Hungarian, Beash, Romanian, etc.) or to their social and legal position (domicile, registered IDPs, non-registered IDPs).

The Roma who were forced to leave Kosovo prior to, during and in particular in the aftermath of the war in Kosovo (1998/1999) are in a special position. A study from 2002 found more than 46,000 Roma from Kosovo living in Serbia.³ Only a part of them (cca. 20,000) were registered as Internally Displaced Persons (IDPs). Others have received a different residence status in the meantime or remained completely unregistered.

According to the Commissioner for Human Rights of the Council of Europe, approximately 23,000 Romani IDPs live in informal settlements without adequate housing,

¹ Government of the Republic of Serbia, Answer to the Questionnaire of the UN Special Rapporteur on Minority Issues, Belgrade, April 2015

² See "Estimates on Roma population in European countries". Retrieved on February 14, 2017 from: <http://www.coe.int/de/web/portal/roma>

³ Jaksic, Bozidar/Basic, Goran (2002) Roma settlements, living conditions and possibilities of integration of Roma in Serbia. Belgrade, Ethnicity Research Centre. The research was conducted in 593 Roma settlements with a minimum size of 15 households, identifying 46,238 Roma, Ashkali and Egyptian IDPs; for an overall analysis of the situation of the Roma, Ashkali and Egyptian IDPs in Serbia see: UNHCR, Assessment of the Needs of Internally Displaced Roma in Serbia, Belgrade, 2014.

employment or access to water and sanitation, and with limited enjoyment of their social and economic rights.⁴ The integration of the IDPs remains a specific challenge for Serbia.

The Roma whose asylum requests in Western Europe were rejected and who were forcefully returned to Serbia constitute another considerable group with specific problems, e.g. children who were born in Western Europe and do not speak Serbian or who have no access to accommodation. These returnees might also include the Roma who are originally from Kosovo, but returned to Serbia. Recent research demonstrated that many Roma from Kosovo who were forcibly returned from Western Europe to Kosovo, leave Kosovo upon return and move to Serbia.⁵

1.2. ANTI-GYPSYISM AND DISCRIMINATION

Anti-Gypsyism, cumulative discrimination, prejudices towards and wrong perceptions of Roma prevail in Serbia as in all other countries in Europe. Anti-Gypsyism and cumulative and systematic discrimination constitute the root-causes for their social exclusion, while high unemployment rates, low education enrolment and attainment rates and the deplorable living conditions of the majority are the symptoms of their situation.⁶ The repercussions of the wars, in particular the expulsion of tens of thousands of Roma from Kosovo to Serbia further complicate the situation in Serbia.

In general, Roma in Serbia face discrimination and exclusion from the general public life. In 2014, 40% of the 124 complaints about discrimination on the basis of ethnicity which were submitted to the Commissioner for Equality were referring to discrimination against Roma.⁷ Though discrimination takes place in institutions, in public or private life, only a few court proceedings have been initiated. This does not only lead to a sense of impunity, but also to the acceptance of discrimination of Roma by Roma and non-Roma alike.

1.3. GENERAL LEGAL AND POLICY FRAMEWORK

Roma in Serbia enjoy the status of a national minority which guarantees them, at least formally, enjoyment of both individual and collective rights in line with the Serbian Constitution, international and domestic human and minority rights standards.

Article 4 of the Law on Protection of Rights and Freedoms of National Minorities even explicitly mentions that authorities could undertake actions to “improve the position of persons belonging to the Roma national minority”.⁸

In addition to the Law on Protection of Rights and Freedoms of National Minorities, numerous national laws, strategies, policy documents and international obligations determine the situation of and the policy towards Roma in Serbia.

In addition to more general documents such as the anti-discrimination law, the relevant sectoral laws and policies (e.g. in education or employment), Roma-specific policies are also in place, in particular the Government Strategy for the Inclusion of Roma in Serbia, adopted in the year 2016.⁹

The Government Strategy has five priority sectors – education, employment, health, housing and social security – with a number of cross-cutting issues. It emphasises the need for an advanced anti-discrimination policy, allows for the introduction of (temporary) affirmative measures and assigns an important role to the local authorities for its implementation.

The Law on National Councils of National Minorities enables the recognised minorities to elect their self-government (National Council) which can participate in decision-making processes concerning their right to education, culture, information and official use of language and alphabet.¹⁰ Roma, as well as Egyptians and Ashkali, have their own National Councils.

4 Council of Europe, Report by Niels Muiznieks, Commissioner for Human Rights, Following his visit to Serbia. March 16-20, 2015. CommDH (2015)14. Retrieved on February 21, 2017 from <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2798638&SecMode=1&DocId=2302808&Usage=2>

5 Society for Threatened People, Lost in Transition, Berne, 2015.

6 For a discussion of Anti-Gypsyism and cumulative discrimination see the overview paper Roma in the Western Balkans 2017

7 National Strategy

8 “Official Gazette of FR of Yugoslavia”, no. 11/02, “Official Gazette of Serbia and Montenegro”, no. 1/03; Official Gazette of RS, nos. 72/09 and 97/13.

9 Government of the Republic of Serbia, Strategy of the Social Inclusion of Roma in Serbia for the Period from 2016 to 2025

10 Official Gazette of RS, nos. 72/09, 20/14 and 55/14.

2. SECURITY AND FREEDOM FROM TORTURE

2.1. LAW AND POLICY REVIEW

Amendments of the Criminal Code from December 2012 introduced hate motive as a special, aggravated circumstance for sentencing when crime has been committed with a bias motive.¹¹ Apart from this, the Criminal Code already contains criminal offences which include in themselves a biased element: instigating national, ethnic or religious hatred and intolerance (Art. 317), racial and other discrimination (Art. 387), violation of reputation of a nation, national or ethnic group (Art. 174). However, some criticism has been brought forward on gaps in the Criminal Code.¹²

The Law on Prohibition of Discrimination has been adopted in 2009. The Law is in the line with the European standards, however minor amendments are needed in order to be fully in line with the *acquis*. It established the Ombudsman's office as an independent body in charge of implementing the provisions of the Anti-Discrimination Law regarding equality rights. The law defines forms and cases of discrimination and methods of protection against them.¹³

The law recognises two types of discrimination – direct discrimination and discriminatory impact or effect, and it introduced reversed burden of proof so that it is the defendant's responsibility to present evidence of non-violation of the principle of equality.¹⁴

The Law on Public Information forbids broadcasting of ideas, information and opinions that incite hatred, discrimination or violence against a person or a group on the basis of their racial, ethnic, religious belonging, gender or sexual orientation, regardless of whether the criminal offence has been committed (Art. 37).¹⁵ However, it will be not considered a hate speech if such information was published without the intent to incite discrimination, hatred or

violence, in particular if such information is a part of an objective media report (Art. 40, para. 1).

In 2009, Serbia ratified Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.¹⁶

2.2. CURRENT SITUATION

The criminal justice system in Serbia does not permit the collection of data disaggregated by ethnicity, hence there are no official statistics on the number of incidents where Roma were victims of violence, racially-motivated hate crimes and hate speech. It is also impossible to determine the percentage of Roma-related cases in comparison to all documented cases, the number of Roma cases in which the police started an investigation, and the number of cases in which the prosecutor pressed charges.

According to the latest ECRI report on Serbia, between January 1, 2011 and May 30, 2016, criminal charges for hate speech were pressed against 216 individuals; most of the offences targeted Roma and LGBT persons.¹⁷

In the recent years, incidents of violence against Roma and cases of hate speech have been reported, however we can assume that the majority of incidents remained unreported. Violence is not limited to any geographic area, it is prevalent throughout the country. Attacks have occurred in both public and private settings, committed by individual perpetrators and groups, by private entities and policemen.¹⁸

Recently, the ERRC reported on an incident of police violence against a Romani couple in a police station in April

11 Official Gazette of RS, no. 121/12

12 See recently ECRI, report on Serbia (fifth monitoring cycle), 2017. Retrieved on June 14, 2017 from <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf>. ECRI, e.g. raises that "incitement to violence is not mentioned and the grounds of skin colour, language, citizenship, ethnic origin, sexual orientation and gender identity are missing".

13 Official Gazette of RS, no. 22/09.

14 Equal Rights Trust, Serbia National Antidiscrimination Laws. Retrieved on August 12, 2017 from http://www.equalrightstrust.org/ertdocumentbank/395178321_5_PIL19%20Project%20-%20Serbia%20Summary%20Template%20for%20National%20Law.pdf

15 Official Gazette of the Republic of Serbia nos. 43/03, 61/05, 71/09, 89/10

16 Official Gazette of the Republic of Serbia, no. 19/09.

17 ECRI, report on Serbia (fifth monitoring cycle), 2017. Retrieved on June 14, 2017 from <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf>

18 ERRC, Country Profiles 2011-2012 – Serbia, 2012. Retrieved on June 14, 2017 from <http://www.errc.org/cms/upload/file/serbia-country-profile-2011-2012.pdf>.

2017.¹⁹ There are also three legal cases pending in which Roma allegedly endured police brutality: A fifteen year-old Romani boy was badly beaten by the police during a fair on July 12, 2011 and taken into custody in Novi Sad where the police tried to extort a confession from him. The second case concerns two Romani brothers, who were regularly harassed by the local police in Backi Petrovac. In November 2012, they were taken to the police station where they were beaten after being suspected of theft. The younger brother, who was a minor at the time, had a burst hernia and was taken for an emergency operation. The third case concerns an incident in Zemun Polje. During a child's birthday celebration in July 2014, nine police officers entered a Roma family's apartment and started to randomly beat people who were inside, based on a complaint about loud music. Members of the family were taken into custody and kept in a sobering-up cell.²⁰

Regarding hate speech in media, ECRI emphasised that the "system of (self) regulation of media is not working

properly: the Press Council is too weak and social media operators do not prevent and eliminate hate speech". In 2015, the Serbian Ombudsman admonished two specific media that published prejudicial reports against Roma: Vecernje novosti daily and the weekly Het Nap.²¹

According to ECRI, the legislation against hate speech and violent hate crimes is inefficient and not always appropriate action is being taken.²² The Commissioner for the Protection of Equality has noted that Roma are very frequently targeted in racially-motivated attacks which are often not investigated and punished properly.²³ In addition, Roma are often uninformed of where and how to file complaints about incidents of hate crime or hate speech.²⁴

Law enforcement officers and/or judicial bodies refuse to acknowledge and prosecute these crimes as hate crimes, which contributes to creation of an environment of impunity for anti-Roma hate crimes.

19 Bernard Rorke, Half time for the EU Roma Framework: Is the Commission serious about Roma inclusion in the Western Balkans? Retrieved on June 15, 2017 from <http://www.errc.org/blog/half-time-for-the-eu-roma-framework-is-the-commission-serious-about-roma-inclusion-in-the-western-balkans/175>

20 ERRC, Domestic Cases: State Response to Violence and Hate Speech, 2015. Retrieved on June 24, 2017 from: <http://www.errc.org/article/domestic-cases-state-response-to-violence-and-hate-speech/4405>

21 Belgrade Centre for Human Rights, Human Rights in Serbia in 2015, pp. 316-317.

22 ECRI, report on Serbia (fifth monitoring cycle), 2017. Retrieved on June 14, 2017 from <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf>

23 Written Comments of the European Roma Rights Centre, PRAXIS and Other Partner Organisations, Concerning Serbia. For Consideration by the Committee on Economic, Social and Cultural Rights at the 52nd Session (April 28 to May 23, 2014). Retrieved on June 14, 2017 from <http://www.errc.org/cms/upload/file/serbia-ce-scr-20-march-2014.pdf>

24 ECRI, report on Serbia (fifth monitoring cycle), 2017. Retrieved on June 14, 2017 from <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf>



PHOTO: NATALIJA SALNIKOVA, SERBIA

3. PERSONAL DOCUMENTS

3.1. LAW AND POLICY REVIEW

The Law on Citizenship of Serbia constitutes the overall framework law.²⁵ The Law on Registry Books in combination with by-laws governs the requirements and procedure for obtaining birth registration.²⁶ In Serbia, a child can only be registered when the parents – or at least the mother – have a regulated status and obtain the necessary documents. Art. 23, para. 3 of the law allows for deferring the registration “...in order to verify or ascertain the missing data to be entered in the register ...”. This Article is in contradiction to the provision of Art. 23, para. 2 stipulating a registration “without delay”.²⁷ This difference can lead to a situation where children remain without registration and documents. The decision is up

to the individual registrar to make use of Art. 23, para. 3 or not.²⁸

The Law on Amendments to the Law on Non-Contentious Procedure provides for the possibility to prove the status before court and register also in absence of evidence or impossibility to prove personal data before an administrative body.²⁹

The by-law Instruction on Administration and Forms of Registry Books specifies the way new-borns are registered and regulates the conditions that parents have to fulfil in order to register children into the birth registry books.³⁰

25 Official Gazette of the Republic of Serbia, nos. 135/04 and 90/07.

26 Official Gazette of the Republic of Serbia, no. 20/09

27 Law on Registries quoted after: Adam Weiss, Roma in Serbia still denied birth certificates – ENS members take legal action to challenge register offices’ unlimited power. Retrieved on February 14, 2017 from <http://www.statelessness.eu/blog/roma-serbia-still-denied-birth-certificates-ens-members-take-legal-action-challenge-register>

28 The ERRC and the Praxis, with support from the European Network on Statelessness, lodged a constitutional “initiative” with the Constitutional Court in Serbia in February 2016 attacking this provision of the law which has been rejected by the Constitutional Court. See Praxis, ERRC, Written Comments by the European Roma Rights Centre and Praxis, Concerning Serbia. For Consideration by the Committee on the Rights of the Child at the Concluding Observations of the 74th Session (January 16 to February 3, 2017). Retrieved on February 17, 2017 from http://praxis.org.rs/images/praxis_downloads/Serbia-crc-submission-december-2016.pdf

29 Official Gazette of the Republic of Serbia, no. 8/12

30 Official Gazette of the Republic of Serbia, nos. 109/09, 4/10 and 10/10

The Law on Permanent and Temporary Residence (2011) in combination with the by-law Rule on the form of registration of residence at the address of an institution or centre for social welfare (2012) allows for the people living in informal settlements to register an address at local Social Welfare Centres.³¹

The Law on Amendments to the Law on Administrative Fees³², July 5, 2011, included a provision on exemption from fees and led to doubling of the number of requests for subsequent birth registration. In 2012, the Government of Serbia established a national coordination mechanism by signing a Memorandum of Understanding (MoU) with the Office of the Ombudsman and UNHCR. Within this mechanism, which also involves civil society, trainings for judges and members of the public administration on the new legislative framework have been implemented and awareness-raising campaigns have been conducted.

3.2. CURRENT SITUATION

In the past, considerable number of Roma in Serbia, in particular the IDPs from Kosovo, did not obtain necessary documents which often left them stateless and created obstacles with regard to accessing labour market, education and health system and receiving social benefits. This is a problem that many Roma faced after the break-up of former Yugoslavia.³³

In the recent years, due to the advocacy of the Ombudsperson institution, civil society and international organisations, the situation has considerably improved in Serbia. The Government of Serbia undertook considerable efforts to improve the access to registration and

documents, by amending respective laws and introducing policies or activities which should facilitate easier access to documents, including affirmative actions for Roma. Legislative shortcomings, including birth registration of new-born babies, and discriminatory practices still exist.³⁴ These shortcomings have to be addressed, but observers do not identify (anymore) a structural discrimination of Roma with regard to registration or accessing documents.³⁵ However, the discriminatory practices that occur in local administrations or with courts – phenomena should be urgently addressed by the relevant authorities in Serbia.

The major gaps refer to the following cases: persons who were born and registered in Kosovo municipalities where the registry books have been destroyed; determination of personal name; acknowledgement of paternity and registration of the fact of citizenship.³⁶

The exact number of Roma who are stateless, not registered at all or who do not possess any document is difficult to determine.

In 2010, the UNHCR estimated that 6750 Roma (1.5%) were “legally invisible people” (based on the assessment that 450,000 Roma live in Serbia).³⁷ Out of the total number, 5.4% did not have an identity card, 3% did not have registered permanent/habitual residence and 2.3 % were not registered in citizens’ registries.³⁸

A report from 2013 assesses that “an estimated 8500 Roma need assistance to access civil registration and to acquire identity documentation”.³⁹

31 Official Gazette of the Republic of Serbia, no. 87/11

32 Official Gazette of the Republic of Serbia, no. 50/2011

33 Tatjana Peric, Personal documents and threats to the exercise of fundamental rights of Roma in Europe. Retrieved on February 15, 2017 from <http://www.errc.org/article/personal-documents-and-threats-to-the-exercise-of-fundamental-rights-of-roma-in-europe/1097>

34 Interview with Ivanka Kostic from the NGO Praxis. Retrieved on February 14, 2017 from <http://www.statelessness.eu/news-events/news/ens-interview-eradicating-childhood-statelessness-serbia>

35 See inter alia Praxis, ERRC, Written Comments by the European Roma Rights Centre and Praxis, Concerning Serbia. For Consideration by the Committee on the Rights of the Child at the Concluding Observations of the 74th Session (January 16 to February 3, 2017). Retrieved on February 17, 2017 from http://praxis.org.rs/images/praxis_downloads/Serbia-crc-submission-december-2016.pdf

36 Praxis, Preventing Childhood Statelessness. Remaining Problems in Serbia. May 2015. Retrieved on February 17, 2017 from <http://www.statelessness.eu/sites/www.statelessness.eu/files/Preventing%20Childhood%20Statelessness-Remaining%20Problems%20in%20Serbia.pdf>

37 Republic of Serbia, Protector of Citizens, Letter to Prime Minister Cvetkovic of January 26, 2012, Initiative for Amending the Law on non-Contentious Procedure. Retrieved on February 17, 2017 from http://www.ombudsman.org.rs/attachments/068_Initiative%20for%20amending%20the%20Law%20on%20Non-Contentious%20Procedure.pdf

38 Data taken from: Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration. Report based on research conducted by Stephanie Woldenberg. Retrieved on February 17, 2017 from <http://www.refworld.org/pdfid/5280c5ab4.pdf>

39 Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration. Report based on research conducted by Stephanie Woldenberg. Retrieved on February 17, 2017 from <http://www.refworld.org/pdfid/5280c5ab4.pdf>

According to Human Rights Commissioner of the Council of Europe, in December 2014, there were 3868 stateless persons or persons at risk of statelessness in Serbia, who were mostly Roma without birth registration or personal identity documents.⁴⁰ According to the German Government, in the year 2015, 3.9% of Roma are still “legally invisible people” (taking the census result as a basis, that would mean 5,756 person).⁴¹

According to all estimates, Roma constitute the majority among the “legally invisible people”, which could be attributed to their lifelong experience of different expressions of discrimination.

When looking at birth registration, the latest MICS survey shows that 95.3% of the Romani children under the age of 5 are registered, in comparison to 99% of the majority population.⁴² The non-registered children are coming primarily from the most vulnerable families. However, 35% of the mothers who stated in the survey that their children were registered could not produce a birth certificate.⁴³ Birth registration is the prerequisite for obtaining other necessary documents (e.g. citizenship, ID card) – the processes where Roma can face other obstacles.⁴⁴

These data demonstrate that Roma are disproportionately represented. The reasons for this fact are manifold. Poverty and the fact that many Roma live in informal settlements contributed to this situation, as well as discrimination and anti-Gypsyism which are also the root causes for poverty and living in informal settlements.

On the other hand, recent legislative changes such as the possibility to register an address at the local Social Welfare Office, procedural changes, outreach and information campaigns (in particular through Health Mediators) led to the registration of approximately 20,000 Roma in the past few years.⁴⁵ However, Romani IDPs from Kosovo living in informal settlements could not benefit from this solution, since they are considered to have a permanent address in Kosovo and are therefore not eligible.⁴⁶

Further, these legislative or procedural changes are not equally implemented in all parts of Serbia. In practice, some Social Welfare Centres refused such a registration or requested a proof from the police that registration at another place is not possible. Several other reasons such as difficult procedure, lack of finances to pay the requested fees or lack of information on available support prevented people from obtaining all of the needed documents.

40 Council of Europe, Report by Niels Muiznieks, Commissioner for Human Rights, Following his visit to Serbia, March 16 – 20, 2015.

CommDH(2015)14. Retrieved on February 21, 2017 from <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2798638&SecMode=1&DocId=2302808&Usage=2>

41 Antwort der Deutschen Bundesregierung auf eine Kleine Anfrage der Fraktion Bündnis 90/Die Grünen zur Menschenrechtslage in Serbien vom 19.08.2016 (Bundesdrucksache 18-9439)

42 UNICEF, Multiple Indicator Cluster Survey 2014. Serbia Roma Settlements. Key Findings. Retrieved on February 17, 2017 from https://www.unicef.org/ceecis/MICS_5_-_Key_Findings.pdf. According to another UNICEF publication, however, over 98% of the Romani children under the age of 5 are registered. See UNICEF, Insights

43 UNICEF, Insights: Child rights in Central and Eastern Europe and Central Asia. Realizing the rights of Roma children and women in Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia. Retrieved on February 15, 2017 from: https://www.unicef.org/ceecis/Insights2014_2.pdf

44 Praxis, Analysis of Practical Application of the Law on Non-Contentious Procedure - Determining the Date and Place of Birth, Belgrade. Retrieved on February 17, 2017 from http://zadecu.org/wp-content/uploads/2014/02/Analysis_of_Practical_Application_of_the_Law_on_Non-Contentious_Procedure_-_Determining_the_Date_and_Place_of_Birth.pdf

45 Joksic, Tijana, Discrimination of Roma in Serbia. Government Response, Freiburg 2015. Retrieved on February 15, 2017 from https://www.freiburger-forum.net/wordpress/wp-content/uploads/2015/05/Tijana_Joksic_Roma_Discrimination-1.pdf. According to the National Strategy, Health Mediators “managed to obtain identity documents and health insurance cards for 16,330 citizens” in the period 2009 – May 2014. See National Strategy, page 49

46 Richard Allen, Support for IDPs in Serbia, Consolidated Report and Programme Strategy. Commissioned by UNHCR, Belgrade 2016

4. EMPLOYMENT

4.1. LAW AND POLICY REVIEW

Roma are one of the officially recognised national minorities in Serbia and thus entitled to a proportional representation in public administration and public office.⁴⁷

In addition to the National Strategy for Roma, the National Employment Strategy 2011-2020 constitutes the major document with regard to employment. The National Employment Strategy recognises Roma as a vulnerable group which requires additional support in order to increase its competitiveness in the labour market.

The *Employment and Social Reform Programme in the Process of Accession to the European Union* (2016) of the Government of Serbia is another important policy

document emphasising the need to improve the situation of Roma in the labour market.⁴⁸ The Programme admits that Roma are “almost entirely” excluded from labour market and encourages the employment of Roma in institutions.

The Programme contains a specific objective dedicated to increasing their access to the labour market (Objective 2.1.) and emphasises that “Roma inclusion in the formal labour market is inextricably linked with their emancipation in the spheres of education, housing and participation in public life, and requires systematic efforts and considerable resources.”

4.2. CURRENT SITUATION

There are no official data regarding the situation of Roma in the labour market, not least due to the caution or refusal of the majority of Roma to declare their ethnicity. Therefore, data on their employment situation are primarily based on surveys.

In 2011, the United Nations Development Programme (UNDP) conducted a regional research on the socio-economic situation of Roma, comparing their situation with the situation of the majority population in close proximity.

Table 1: Selected data on the employment situation of the Roma in Serbia (2011)⁴⁹

Serbia	Men		Women		Total	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Employment rate (15-64)	40%	55%	13%	31%	26%	43%
Employment rate (15-24)	25%	24%	6%	11%	16%	17%
Unemployment rate (15-64)	39%	21%	67%	37%	49%	27%
Unemployment rate (15-24)	54%	36%	82%	67%	65%	50%
Activity rate (15-64)	66%	69%	38%	50%	52%	60%

According to the 2014 UNHCR Roma IDPs Survey and Labour Force Survey, the situation is even worse.

Table 2: Employment indicators⁵⁰

Indicator	Romani IDPs	domicile Roma	General population in Serbia
Activity rate	52%	56%	49%
Employment rate	14%	17%	40%
Unemployment rate	74%	70%	17%

47 Article 77 of the Constitution of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 98/06.

48 Government of the Republic of Serbia, *Employment and Social Reform Programme in the Process of Accession to the European Union*. Retrieved on February 22, 2017 from <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/06/SIPRU-ESRP-2016-English.pdf>

49 See the results of the UNDP survey. Retrieved on August 26, 2016 from: <http://www.eurasia.undp.org/content/rbec/en/home/ourwork/sustainable-development/development-planning-and-inclusive-sustainable-growth/roma-in-central-and-southeast-europe/roma-data/>

50 Source: 2014 UNHCR Roma IDPs Survey and Labour Force Survey QIV 2014, SORS, quoted after Richard Allen, *Support for IDPs in Serbia, Consolidated Report and Programme Strategy*. Commissioned by UNHCR, Belgrade, 2016

The data demonstrate the disadvantaged position of Roma and the discrimination they face in the labour market and in particular the difficult position of Romani women. The Government of Serbia undertook some efforts in the recent years to improve the participation of Roma in the labour market, however with limited success. At least

an increasing number of Roma got registered with the National Employment Service (NES), which constitutes a prerequisite for participation in active labour market measures.

Table 3: Roma registered with NES⁵¹

Year	2009	2010	2011	2012	2013
Total	13,416	15,867	19,398	20,342	22,102
Women	6571	7637	9180	9513	10,150
Women (%)	49.0	48.1	47.3	46.8	45.9

Data as of September 2015 reveal a further increase of registered Roma (22,513 in total; of whom 10,495 are women).⁵² An analysis of the educational background of the registered unemployed Roma demonstrates the dominance of persons without qualifications and with low qualifications (88.66%), pointing to the cumulative discrimination Roma face.⁵³

In the context of labour market integration it is important to point at the number of cca. 59,000 Roma who are beneficiaries of Centres for Social Work. Cca. 48,000 of them receive some kind of financial social assistance, constituting cca. 65% of the total number of all recipients.⁵⁴

Discrimination in the labour market is prevalent. The National Strategy dedicates Operational objective 2 “Prevent and reduce discrimination against Romani men and women in the labour market” solely to this issue.

The discrimination in the public sector is particularly obvious. Roma are one of the officially recognised national minorities in Serbia and thus entitled to a proportional representation in public administration and public office.⁵⁵ Research from 2011 demonstrates the extent to which Roma are underrepresented in public administration. Out of 16,675 employees in 51 state institutions, only 728 declared to be a member of a national minority and among them there were only eight Roma. According to the census from 2011, Roma make up 2.05% of the population

(according to estimates up 7-8%), but within the state institutions Romani employees make up only 0.04%.⁵⁶

A similar situation prevails in the private sector where Roma face difficulties finding employment. This participation of Roma in “subsidised employment schemes” illustrates their situation in the labour market in Serbia and the discrimination they face from potential employers. According to the National Strategy, only 2.8% of subsidised employments were concluded with Roma (50 persons in total and among them 28 women) though Roma were one of the explicit target groups. The reasons for this low participation presumably include discrimination and prejudices towards Roma, as well as low qualifications and limited competitiveness.⁵⁷

51 Dragana Marjanovic, Assessment of the structural barriers that hinder the employment of Roma women. Retrieved on February 16, 2017 from http://www.european-progres.org/dokumenti/48_646015_asesment-of-the-structural-barriers-for-roma-women-employment.pdf

52 Government of the Republic of Serbia, Strategy of the Social Inclusion of Roma in Serbia for the Period from 2016 to 2025, page 41

53 Government of the Republic of Serbia, Strategy of the Social Inclusion of Roma in Serbia for the Period from 2016 to 2025, page 41

54 Government of the Republic of Serbia, Employment and Social Reform Programme in the Process of Accession to the European Union. Retrieved on February 22, 2017 from <http://sociojalnoukljucivanje.gov.rs/wp-content/uploads/2016/06/SIPRU-ESRP-2016-English.pdf>

55 Article 77 of the Constitution of the Republic of Serbia, Official Gazette of the Republic of Serbia”, no. 98/06.

56 Minority Rights Center, Participation of Roma in Public Administration, quoted after European Roma Rights Centre, Country Profile Serbia, Budapest, 2013

57 Government of the Republic of Serbia, Strategy of the Social Inclusion of Roma in Serbia for the Period from 2016 to 2025



PHOTO: DUNJA MISKOV, SERBIA

5. EDUCATION

5.1. LAW AND POLICY REVIEW

The Constitution foresees the introduction of special by-laws and measures in order to achieve full equality between ethnic minorities and the majority population. In the area of education, the main document addressing this provision of the Constitution is the Law on the Foundations of the Education System, which stipulates the “equality and accessibility of education without any discrimination and segregation”.⁵⁸

Other laws and by-laws in the area of education promote equal participation, in particular of Roma. Examples of such documents include the Law on Primary Education, the Law on Pre-School Education or the Rulebook on Additional Educational, Medical and Social Support to Pupils, Rulebook on Assessment and Evaluation of the Individual Education Plan, Rulebook on Grading Pupils in Elementary Education.⁵⁹

The prohibition of discrimination is in general regulated

by the Anti-Discrimination Law. With regard to discrimination in education, the Law on the Foundations of the Education System and by-laws such as the Regulation on Detailed Criteria to Recognize Forms of Discrimination by an Employee, Child, Student, and Third Parties in an Institution or the Rulebook on the Protocol for Acting in the Institution when Responding to Violence, Abuse and Neglect are of relevance.⁶⁰

Other laws and by-laws relate to affirmative actions available for Roma. The Law on School and University Student Standard defines the conditions of the right to assistance for various groups of users and explicitly lists the Roma national minority.⁶¹ The Regulations on Student Loans and Scholarships states that the school and university students from vulnerable groups can exercise their right to scholarship and loan through means of affirmative action.⁶²

5.2. CURRENT SITUATION

58 UNESCO, World Data on Education, VII Ed. 2010/11. Serbia. Retrieved on February 22, 2017 from <http://www.ibe.unesco.org/sites/default/files/Serbia.pdf>

59 Council of Europe 2015

60 Official Gazette of the Republic of Serbia, no. 22/09

61 Official Gazette of the Republic of Serbia, nos. 18/10 and 55/13

62 Official Gazette of the Republic of Serbia, nos. 46/10, 47/11, 56/12 and 75/13

Within education, the situation of the Roma in Serbia is characterised by low enrolment rates, high drop-out rates, low participation in secondary and tertiary education, (segregated) classes offering substandard education and still by misplacement of students in special schools.

The persistence of segregated schooling with lower standards and the practice of sending a considerable share of Romani children to “special schools” are the most obvious forms of ongoing discrimination of Romani children in the education system in Serbia. State institutions and authorities at least tolerate these phenomena and the cases of sanctioning responsible institutions or individuals are rare.

Other expressions of discrimination that individual Romani children have to face include bullying by classmates due

to their ethnicity or discriminatory treatment by teachers and headmasters. In general, teachers are not trained on identifying and combatting discrimination and persons who discriminate Romani children on ethnic grounds do not have to face consequences.⁶³

Education also demonstrates the consequences of cumulative discrimination in time and space. Discrimination contributed to the lower level of education, already of parents, which is repeated with the children. Poverty or unemployment – also reinforced by anti-Gypsyism and discrimination – affect housing and studying conditions. The consequences of other forms of discrimination, e.g. in housing or employment, affect the performance and attainments in education or their right to education in general.

Table 4: Selected data on the situation in education of the Roma in Serbia (2011)⁶⁴

Serbia	Men		Women		Total	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Literacy rate (16+)	92%	98%	79%	97%	85%	98%
Literacy rate (16-24)	92%	99%	87%	100%	90%	99%
Pre-school enrolment rate (3-6)	20%	45%	15%	50%	18%	48%
Gross enrolment rate in compulsory education (7-15)	80%	95%	80%	95%	80%	95%
Gross enrolment rate (Upper-Secondary Education 16-19)	27%	78%	23%	64%	25%	71%
Average years of education (25-64)	6.7	11.0	4.9	10.6	5.8	10.8
Average Years of Education (16-24)	7.1	11.2	5.9	11.6	6.5	11.4

Serbia undertook efforts to improve the participation of Romani children in the education system, however, still with limited impact. Serbia introduced several affirmative measures for Romani students or for students from vulnerable groups. The Law on the Foundations of the Education System and the Regulations on additional educational, health and social assistance for children and school students allow for affirmative measures.⁶⁵ In combination with other measures such as Teaching Assistants, scholarships for secondary school and university students, quota for Romani students (receiving state

support) in state-financed universities or free textbooks, they aim at improving the participation and performance of Romani children in the education system.

With regard to pre-school education, the legal framework allows for priority enrolment of children from “socially vulnerable groups”.⁶⁶ However, criteria are vague and there aren’t any guidelines for the implementation of this law, so that in practice one can even observe a decreasing number of Romani children attending pre-school education.⁶⁷

63 Government of the Republic of Serbia, Strategy of the Social Inclusion of Roma in Serbia for the Period from 2016 to 2025

64 See the results of the UNDP survey. Retrieved on August 26, 2016 from: <http://www.eurasia.undp.org/content/rbec/en/home/ourwork/sustainable-development/development-planning-and-inclusive-sustainable-growth/roma-in-central-and-southeast-europe/roma-data/>

65 Official Gazette of the Republic of Serbia, no. 63/10

66 Law on Pre-School Education and *Regulations on conditions of gaining priority for the enrolment of children in preschool education* (Official Gazette of RS, no. 44/11). According to the Law on Financial Support to Families with Children from Financially Vulnerable Families, they are entitled to a refund of costs of the child’s attendance in pre-school from the local budget

67 Government of the Republic of Serbia, Strategy of the Social Inclusion of Roma in Serbia for the Period from 2016 to 2025

The participation of Romani children in (compulsory) primary education has increased in the recent years, though their participation rate is still lower in comparison to the majority population and only around two-thirds finish primary education (64%). And 30% of the Romani children start with schooling at an older age due to a lack of appropriate preparation in pre-school.⁶⁸

The differences between majority population and Roma even increase when it comes to participation in secondary schools as the table above demonstrates. In addition, 80% of the Romani children leave schools early.

The National Strategy notes in addition a gender gap which is not confirmed by the UNDP research: while 28% of the Romani boys attend secondary education, only 15% of the Romani girls are in a position to do so. The situation of children living in extreme poverty with only 5% being able to attend secondary schools is particularly worrying.

The situation of Romani IDPs from Kosovo remains a specific concern. The 2014 UNHCR survey revealed that over 65% of Romani IDPs have not graduated from primary school (in comparison to less than 12% of the overall population).⁶⁹

SPECIAL SCHOOLS

According to the Government Strategy, 30% of all children in “special schools” are of Romani ethnicity, though their share in the overall population is by far less. The Government Strategy also confirms the ongoing practice of transferring Romani children from mainstream to “special schools”, while transfer from “special schools” to mainstream schools is hardly possible.⁷⁰

The ERRC conducted research in 2013 on the representation of Romani children in the “special schools”. Romani children were disproportionately represented in “special schools”, which excludes them from equal access to quality education. Children were still transferred from mainstream schools to “special schools” and even direct enrolment into the first grade of special schools was ongoing (survey in schools across Serbia revealed that in the school year 2012/2013 still 11% of Romani children were enrolled in the first grade of special schools). Overall, the

survey in 31 schools in Serbia has revealed an extremely high proportion of Romani students (reaching up to 73% in 2012/13) in “special schools”.⁷¹

SEGREGATED SCHOOLING

In 2016, ERRC research showed the persistence of segregated schools, following an uncontrolled “white-flight” in schools in close proximity to Romani settlements due to an outdated catchment area system. In integrated classes, it was observed that Romani children are far more likely to be designated to follow individual education plans which also contributes to segregated education.⁷²

Segregation in “mainstream education facilities” is not so common, but according to the National Strategy one can observe “a trend of its increase” – not least in some cases attributed to the increased inclusion of Romani children in education – and there are no desegregation measures in place. As a rule, these segregated schools or classes provide education of lower quality.

ROMANI LANGUAGE AND ROMANI IDENTITY AND CULTURE

According to the Constitution and the Law on National Minorities, minorities in Serbia are entitled to express and develop their individual national, ethnic, cultural, and religious characteristics, to use their language and alphabet, and to receive education in their language in state-founded institutions.

According to the 2014 UNHCR survey, 68% of the domicile Roma population and 76% of the Romani IDPs speak Romani as a first language at home and only 27% and 7% respectively speak Serbian.⁷³

Serbia made some progress with regard to introducing related subjects in schools. An agreement on standardising Romani language has been achieved, a curriculum has been developed, teachers training has been organised and a Department for Romani Language has been established at the University of Belgrade.⁷⁴

However, despite the expression of interest among Roma parents that their children attend lessons “Romani

68 Government of the Republic of Serbia, *Strategy of the Social Inclusion of Roma in Serbia for the Period from 2016 to 2025*

69 Quoted after: Richard Allen, *Support for IDPs in Serbia, Consolidated Report and Programme Strategy*. Commissioned by UNHCR, Belgrade, 2016

70 Government of the Republic of Serbia, *Strategy of the Social Inclusion of Roma in Serbia for the Period from 2016 to 2025*

71 ERRC 2014

72 Praxis, ERRC 2016

73 Data taken from: Richard Allen, *Support for IDPs in Serbia, Consolidated Report and Programme Strategy*. Commissioned by UNHCR, Belgrade, 2016

74 Enrolment rates to study at the Department are, however, very low.

language with elements of Roma culture”, only 39 schools in the province of Vojvodina introduced such courses.⁷⁵

Teachers for this subject can be trained at three institutions in Serbia.⁷⁶

6. HOUSING⁷⁷

6.1. LAW AND POLICY REVIEW

The authorities in Serbia adopted several laws and policies relevant for improving access to quality housing for Roma. However, the housing-related measures foreseen in the Government Strategy and related national and local policy documents have hardly been implemented due to several reasons, including the failure of the authorities to assume their responsibility.

The Social Housing Law specifically lists Roma as a particularly vulnerable group whose members are entitled to have advantages in the procedure of being granted access to social housing.⁷⁸ Article 10 gives Roma even a priority in the distribution process of social housing units. Social housing is considered as housing of an adequate standard intended for households that, for a number of social, economic and other reasons, cannot afford appropriate apartment lease or ownership in the existing market conditions.

The Social Security Law is the legal basis for local governments to provide the service of “Social housing under secure conditions.”

The National Strategy for Social Housing focuses on several fields in order to improve the housing situation in Serbia, some of which being of particular importance for Roma:⁷⁹

The Law on Spatial Planning identifies Roma settlements as the most vulnerable category of settlements and defines models for their social and economic integration and

improvement of living conditions of their inhabitants.⁸⁰ The Law on Planning and Construction regulates the spatial and urban planning, development and use of construction land and construction of buildings in Serbia.⁸¹

The Law on Legalisation of Facilities does not fully address the situation of Roma.⁸² In the Republic of Serbia cca. 1.3 million illegally constructed buildings have been registered and approximately 720,000 applications for legalisation have been submitted.⁸³ The Law, however, is only applicable when certain criteria are fulfilled, but they, however, do not refer to the situation of Roma in informal settlements.

In order to address the omissions of the Law on Legalisation of Facilities, civil society organisations developed a Draft of the Law on the Legalisation of Sustainable Informal Roma Settlements.⁸⁴ The purpose was to introduce a “lex specialis”, complementing the Law on Legalisation of Facilities. However, this initiative was only partly successful, since the government agreed only to adopt a new law on housing which should also address the gaps of the Law on Legalisation of Facilities. At the time of writing this analysis, the new law on housing has not been adopted.

The issue of housing is also reflected in the National Strategy for Roma which defines eight operational objectives, accompanied by measures and expected outcomes by 2025 with regard to housing.

75 Government of the Republic of Serbia, Strategy of the Social Inclusion of Roma in Serbia for the Period from 2016 to 2025

76 See Strategy for Social Inclusion of Roma in Serbia 2016-2025. Retrieved on May 26, 2017 from: <http://www.minrzs.gov.rs/lat/dokumenti/medjunarodna-saradnja/strategija-za-socijalno-uklju%C4%8Divanje-roma-i-romkinja-u-republici-srbiji-za-period-od-2016-do-2025-godine>

77 Most of the information has been taken from the Government Strategy on the Inclusion of Roma in Serbia

78 Official Gazette of RS, no. 72/09.

79 Official Gazette of RS, no. 13/12. For a list of relevant fields of the Housing Strategy see the Government Strategy for the Inclusion of Roma

80 Official Gazette of RS, no. 88/10.

81 Official Gazette of RS, no. 72/09, 81/09 - correction, 64/10 - decision adopted by the Constitutional Court, 24/11, 121/12, 42/13 - decision adopted by the Constitutional Court, 50/13 - decision adopted by the Constitutional Court, 98/13 - decision adopted by the Constitutional Court, 132/14 and 145/14.

82 Official Gazette of the Republic of Serbia, no. 96/2015

83 For this analysis see: Council of Europe, Ad Hoc Committee of Experts on Roma Issues (CAHROM), Thematic Report on (re-)housing solutions for Roma and alternative measures to (forced) evictions, Strasbourg, October 5, 2014

84 Draft Law on the Legalisation of Sustainable Informal Roma Settlements. Retrieved on August 25, 2016 from http://www.romadecade.org/cms/upload/file/9775_file7_draft-of-the-law-on-the-legalisation-of-sustainable-informal-roma-settlements.pdf

6.2. CURRENT SITUATION

Many of the stipulations in policies and laws referring to the improvement of the housing situation of Roma have not been implemented. Further, available funds earmarked for the improvement of the housing situation have not been fully used and the information on proposed measures and available opportunities do not always reach the local level – the local authorities and Romani communities.

In general, the housing situation of the Roma in Serbia is by far worse than the situation of the majority population or of other ethnic groups. Studies of the World Bank, UNICEF or UNDP demonstrate the significant difference and the deplorable situation. Among the Roma, the Internally Displaced Persons from Kosovo are in a particularly difficult situation.

According to expert estimations, about 70% of Roma in Serbia live in Romani settlements. Very often these settlements are characterised by spatial and social segregation of Roma and by their informal nature.

Following a research on substandard Romani settlements in 2015, a database and a “Geographic Information System for substandard Roma settlements” have been established within the Ministry of Construction, Transport and Infrastructure, Department of Housing, which will allow for monitoring the situation of Romani settlements.

The survey mapped 583 “substandard” Romani settlements, a substantial part whereof was created more than 45 years ago. For example, in the Vojvodina, 65% of the settlements are over 45 years old, in Southern and Eastern Serbia 61% of the settlements, in the region of Šumadija and Western Serbia 53%, and in the region of Belgrade this percentage is the lowest - 33%.⁸⁵

Box 1: Housing Indicators for Serbia

Housing Indicators for Serbia

40% of the buildings in Romani settlements are made of material unsuitable for construction.

39% of Roma households live in poor housing and disorderly neighbourhoods: compared to 10% of households in the overall population.

37% of households in Roma settlements do not have adequate access to drinking water, compared to 8% of households of the overall population.⁸⁶

About 67% of Roma households live in homes without connection to the sewage system, compared to 37% of households of the overall population.

11% of Roma households do not have electricity in their homes, compared to 0.1% in the overall population.

79% of Roma households, compared with 61% of households in the overall population, are forced to reduce the heating in their apartments due to insufficient income.

73% of the Romani IDPs have less than 10 m² per household member compared to about 26% of non-Roma.

54% of Romani IDPs households do not have a bathroom in their house, compared to less than 10% of non-Romani households.⁸⁷

THE ISSUE OF INFORMAL SETTLEMENTS AND UNRESOLVED PROPERTY QUESTIONS

All over Serbia, many of the Romani settlements or parts of these settlements are of informal nature, meaning that the inhabitants are either not registered as owners of the property or of the dwelling built on the property or even

of none of them. In addition, many of these settlements are not included in local spatial planning or development plans and are not connected to public infrastructure and services. However, it has to be taken into account that not all informal settlements can be considered as sub-standard or slums.

85 OSCE, *Basic characteristics of substandard Roma settlements in Serbia*. Belgrade: OSCE Mission to Serbia, 2015. Retrieved on July 20, 2016 from: <http://www.osce.org/sr/serbia/159746?download=true>. The difference in the numbers is the result of different methodologies used in the two surveys.

86 Bodewig and Sethi. *Poverty, social exclusion and ethnicity in Serbia and Montenegro: Case of Roma*. Belgrade: World Bank, 2005.

87 UNHCR and the Serbian Commissariat for Refugees, *Assessment of the needs of internally displaced persons in Serbia*, Belgrade, 2011.

About 290 (cca. 50%) of the Romani settlements are included in the physical plans of the municipalities, however, only 19% are included in the general urban plan, 21% are included in the general regulation plan of the municipality, and 10% are included in plans of detailed regulation. Lack of proper urban planning documentation represents a significant obstacle in the process of legalisation of housing units, since it challenges the legal security of ownership as an essential element of the right to adequate housing. The lack of adequate inclusion of Romani settlements in the urban planning is compounded by the fact that the participation of Roma in the process of developing urban development plans is very low, primarily due to an underdeveloped practice of participatory planning in Serbia. In addition, there are urban plans that request the removal of Romani settlements, but not their improvement.

The fact that changes to dwellings might not have been registered in the cadastre represents further challenge, and the complex and costly procedure for legalisation of buildings also creates serious challenges for many people.

LACK OF INFRASTRUCTURE

The findings of the above mentioned surveys demonstrate to which extent Romani settlements are not connected to public infrastructure – or the extent to which the authorities neglect Romani settlements, but they do not contain information on the quality of the water or electricity supply or on the affordability for poor people. In addition, many of the settlements are not connected to public services, such as public transport or garbage collection.

SOCIAL HOUSING PROGRAMMES

Overall, there are not sufficient social housing programmes in Serbia that would allow, e.g. Roma to leave their substandard dwellings. Social housing programmes are in particular implemented in Belgrade with the financial support from the European Union for families who were forcibly evicted from the informal settlements “Gazela” and “Belville”, however, some of them cannot afford the running cost of the new apartment.⁸⁸

Roma often could not participate in previous social housing programmes, since many of them did not meet the

criteria set up for inclusion in social housing schemes. After the amendment of the respective criteria, it is now easier to be included in social housing schemes, but they still face certain obstacles such as not being able to pay the utilities for living in social housing.

On the other hand, “forward looking” planning of social housing programmes for very vulnerable families, including Roma, do not exist, and in general the criteria and eligibility scoring established for the selection of beneficiaries makes it more difficult for vulnerable families, in particular Roma, to receive social housing apartments.

FORCED EVICTIONS

Though in the last years forced evictions of larger scale did not take place, it remains an issue of permanent threat to many people. In the past, the authorities carried out several forced evictions of informal settlements without following the procedure according to international human rights standards.⁸⁹

These forced evictions and the public discussion about it, including the resistance of neighbours in locations to which the evictees were resettled, created or strengthened negative stereotypes about Roma.

The adoption of laws on forced evictions, in line with international standards, is therefore also one of the activities the Government of Serbia has to conduct in the accession process to the European Union.

Internally Displaced Persons (IDPs) from Kosovo
A specific challenge for Serbia remains the (re-)integration of tens of thousands of Roma, Ashkali and Balkan-Egyptians who were expelled from Kosovo in the aftermath of the conflict in 1998/1999 and fled to Serbia. Currently, there are around 20,000 Roma from Kosovo registered as IDPs. Several thousand received a different residence status in the meantime while others are not registered at all. In particular, the housing situation is still appalling with many of them living in slums.

REINTEGRATION OF RETURNEES

Western Europe, in particular Germany, strengthened recently its efforts for returning Roma refugees by force to the Western Balkans, including Serbia. Many returnees

88 See website of the EU Delegation to Serbia. Retrieved on July 20, 2016 from: <http://europa.rs/davenport-hands-keys-to-apartments-to-32-roma-families-in-mislodjin/?lang=en>

89 See Balkan Insight, Belgrade continues mass evictions of Roma Families. Retrieved on July 19, 2017 from: <http://www.balkaninsight.com/en/article/belgrade-forcibly-evicted-roma-families>; amnesty international, Serbia must end forced evictions of Roma. Retrieved on July 19, 2017 from: <https://www.amnesty.org/en/press-releases/2010/06/serbia-must-end-forced-evictions-roma/>

might have no accommodation upon return and will have problems in generating sufficient income to survive. The Action Plan for Chapter 23 (in the framework of the accession process to the European Union) foresees only activities in the field of education for children who were returned from Western Europe, however, not in the field of housing.

INTERNAL MIGRATION

Serbia sees considerable internal migration of Roma from smaller municipalities to larger towns, in particular Belgrade, but also to Novi Sad or Nis. They expect better opportunities for (informal) employment in larger towns. Due to the lack of official dwellings, many stay in or even build informal, sub-standard settlements.

DISCRIMINATION IN HOUSING

In 2016, two major incidents of discrimination in housing became public. In August 2016, the electric company cut off the power for the Romani settlement “Crvena Zvezda” in the town of Nis and it was only reinstalled on December 26, 2016. Electricity in the settlement is distributed through collective meters and charged in a collective bill for all inhabitants.⁹⁰

In November 2016, a 120m long and two meter high wall was built in the town of Krusevac between the Romani settlement “Marko Orlovic” and the rest of the city, allegedly as a “noise barrier” to protect citizens from the traffic from the highway. However, the areas inhabited by non-Roma were “not protected” by such a wall.⁹¹

90 Written Comments by the European Roma Rights Centre, ERRC submission to the European Commission on the enlargement component of the EU Roma Framework (May 2017). Retrieved on June 15, 2017 from <http://www.errc.org/cms/upload/file/submission-on-roma-inclusion-in-enlargement-countries-may-2017.pdf>

91 Written Comments by the European Roma Rights Centre, ERRC submission to the European Commission on the enlargement component of the EU Roma Framework (May 2017). Retrieved on June 15, 2017 from <http://www.errc.org/cms/upload/file/submission-on-roma-inclusion-in-enlargement-countries-may-2017.pdf>



7. ACCESS TO JUSTICE

7.1. LAW AND POLICY REVIEW

Serbia also ratified the [Council of Europe Framework Convention for the Protection of National Minorities](#) and adopted another law protecting its national minorities, the [Law on National Councils of National Minorities](#).⁹² Legislation in the areas of education, media, state administration and local self-government contains specific provisions aimed at the realisation of collective rights of national minorities, including Roma.⁹³

However, the overall trust in the judiciary system in Serbia is low. According to a research, 66% of the population does not trust the judiciary.⁹⁴ Although the Antidiscrimination law, adopted in 2009 and in force since January 2012, is generally in line with EU standards, it has been criticised by legal experts and the EC for the lack of clarity in the scope for the general prohibition of

discrimination and for its effectiveness. The law also does not allow taking legal action in cases of indirect discrimination. There is also no provision in the Serbian justice system which would place public authorities under a positive duty to promote equality and to prevent discrimination in carrying out their functions.⁹⁵

Two institutions are relevant with regard to combatting discrimination, racism and intolerance and the limitations in the access to justice: the [Commissioner for Protection of Equality \(CEP\)](#), which produces annual reports and enjoys a high degree of independence, but lacks the power to take up cases of discrimination *ex officio*. The second institution is the Protector of Citizens (Ombudsman), who is responsible for dealing with discrimination by public authorities.⁹⁶ In 2013, the Government also adopted a comprehensive

⁹² Law on National Councils of National Minorities, Official Gazette of RS, no. 72/2009.

⁹³ ERRC, Country Profile – Serbia, 2012, pp. 13-14.

⁹⁴ Research Argus of News Agency Beta, conducted in November 2014. Retrieved on June 14, 2017 from <http://www.euractiv.rs/pregovori-sa-eu/8212-graani-srbije-ne-veruju-institucijama>

⁹⁵ ECRI, report on Serbia (fifth monitoring cycle), 2017. Retrieved on June 14, 2017 from <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf>. See also Belgrade Centre for Human Rights, Human Rights in Serbia in 2015

⁹⁶ ECRI, report on Serbia (fifth monitoring cycle), 2017. Retrieved on June 14, 2017 from <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf>.

anti-discrimination strategy for the period 2013–2018.⁹⁷ There is no law on free legal aid in Serbia.⁹⁸ Despite the lack of uniform legal framework, some entities can potentially become providers of free legal aid: units of local self-government, attorneys, non-governmental organizations, legal clinics and labour unions. Protector of Citizens and Commissioner for Protection of Equality – included advising of the citizens and provision of free legal aid.⁹⁹ There are no ethnically disaggregated data available on Roma and access to justice.

7.2. CURRENT SITUATION

Following his visit to Serbia, the Council of Europe

8. HEALTH

8.1. LAW AND POLICY REVIEW

The most relevant laws are the Law on Health Care and the Law on Health Insurance. The Law on Health Care guarantees health care under equal conditions to all persons, including to Roma who, “due to their traditional lifestyle”, do not have permanent or temporary residence in Serbia.¹⁰²

The Law on Health Insurance guarantees those persons of Roma ethnicity who, “due to their traditional way of life”, have no permanent or temporary residence in Serbia, public health insurance, in case they do not qualify for insurance on other grounds (being employed, retired or a family member of an insured person).¹⁰³

Commissioner for Human Rights expressed concerns about the status of internally displaced Roma, most of whom do not have adequate access to fundamental human rights.¹⁰⁰

There are still Roma in Serbia who do not have identity documents (see chapter 2). Though progress has been made on issuing documents and avoiding statelessness, in March 2017, with support from the European Network on Statelessness, the ERRC and the Serbian NGO Praxis have lodged a constitutional “initiative” with the Constitutional Court in Serbia attacking a provision of legislation which allows registrars to delay birth registration.¹⁰¹

Monitoring surveys suggest that the amendments to the regulations allowing Roma without registered residence to obtain health cards have been effective.¹⁰⁴

Of further relevance are the Law on Patient Rights and the Law on Public Health. The Law on Patient Rights guarantees equal access to health services.¹⁰⁵ The Law on Public Health refers, inter alia, to health of vulnerable groups in particular, e.g. through health promotion programmes of the Institutes of Public Health.¹⁰⁶

At policy level, two strategies are important for accessing quality health care: the Strategy for Public Health and the Strategy for Continuous Improvement of the Quality of

97 ERRC, Submission to the European Commission during its 2014 Review of the Accession Progress – Serbia, 2014.

98 ECRI, Country Report- Serbia, 2017.

99 YUCOM, Access to Justice and Free Legal Aid in Serbia, 2016. Retrieved on June 24, 2017 from: <http://en.yucom.org.rs/access-to-justice-and-free-legal-aid-in-serbia/>.

100 Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to Serbia, from March 16 to 20, 2015. Retrieved on June 23, 2017 from: [https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH\(2015\)14&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH(2015)14&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864)

101 ERRC, Praxis, *Initiative to Institute Proceedings for Assessing Constitutionality and Legality*, 2016. Retrieved on June 23, 2017 from: <http://www.errc.org/cms/upload/file/serbia-birth-initiative-7-march-2016-english.pdf>.

102 Official Gazette of RS, no. 107/05, 72/09, 88/10, 99/10, 57/11, 119/12, 45/13 and 93/14.

103 Official Gazette of RS, no. 107/05, 109/05 - correction, 57/11, 110/12 - decision adopted by the Constitutional Court, 119/12, 99/14, 123/14, 126/14 - decision adopted by the Constitutional Court.

104 Belgrade Centre for Human Rights, Human Rights in Serbia 2011, Belgrade, 2012, p. 258, available at: <http://english.bgcenter.org.rs/images/stories/Datoteke/human%20rights%20in%20serbia%202011.pdf>

105 Official Gazette of RS, no. 45/13.

106 Official Gazette of RS, no. 72/09.

Health Care and Patient Safety, the latter explicitly referring to Roma.¹⁰⁷

8.2. CURRENT SITUATION

The health situation in Romani communities is poor and Roma experience unequal access to health care services due to a combination of ethnic discrimination, poverty and social exclusion factors.¹⁰⁸

According to the UNDP, World Bank and European Commission (UNDP/WB/EC) regional survey, 93% of Roma in Serbia age 16 and above have access to medical insurance, the same as general population.¹⁰⁹ Despite the legal and policy obligations, Roma without documents often have difficulties in exercising the right to primary health care and emergency health care, often due to lack of knowledge by health professionals who request personal documentation though not required. The situation is particularly troublesome for Romani IDPs.

The health status of Roma is very much determined by their housing situation and the environment of most of the neighbourhoods. CAHROM emphasises in the 2013 report that “environmental problems (lack of sewerage system, solid waste disposal, air pollution, lack of open space/ventilation of the settlement space, etc.) of not legalised settlements have a consequence on the health and life expectancy of Roma.”¹¹⁰

According to a UNDP survey in 2012, the self-perception of Roma regarding their health status and access to health service is quite positive. Eighty percent feel positive about their health status (80%), though 53% reported that they are unable to work due to disabilities. Eighty-six percent feel safe regarding health protection (86%) and 77% of them are satisfied with provided services. However, a considerable share of Roma (65%) stated that they cannot afford to buy prescribed medicine.¹¹¹

The overall data on the health status in comparison to the majority population reveals a bleak picture: significantly lower life expectancy, higher infant and child mortality rates and a higher share of experiencing anxiety and depression. Though a decrease in child mortality rate has been observed, the difference in the mortality rates of Romani children comparing to majority of population is still high. Both infant and under-five mortality rates in Romani settlements are double the country average. The highest infant mortality rates (26 per thousand live births) and under-five mortality rates (29 per thousand live births) are among Romani children whose mothers have no formal education.¹¹²

The CAHROM 2013 report argues even higher numbers, with child mortality among Roma being 3.5 higher than among the majority children.

The number of Romani children born outside of hospital remains significantly high as 16% of Romani women in Serbia reported giving birth unattended.¹¹³

Across the region, more Roma than non-Roma experience anxiety and depression. In Serbia, a larger share of Romani women than men suffers by anxiety and depression. The share of Romani women suffering anxiety and depression is significant (20%) even in the regional comparison.¹¹⁴

Roma health mediators, a program coordinated by the Ministry of Health, have been since 2011 recruited to work within local health institutions in at least 59 municipalities.¹¹⁵ They are paid partially from the State budget and are hired through temporary contracts that have to be renewed every three months.¹¹⁶ Despite the work of Roma Health Mediators, there are incidents recorded of ambulances refusing to provide medical interventions in Romani communities.¹¹⁷

107 Strategy for Public Health: Official Gazette of RS, no. 22/09; Strategy for Continuous Improvement of the Quality of Health Care and Patient Safety: Official Gazette of RS, no. 15/09.

108 See, for example, Health status of the Roma population. Data collection in the Member States of the European Union”, by MATRIX, European Commission, 2014, available at: http://ec.europa.eu/health/social_determinants/docs/2014_roma_health_report_en.pdf.

109 UNDP/WB/EC regional Roma survey 2011, available at: <http://europeandcis.undp.org/data/show/D69F01FE-F203-1EE9-B45121B12A557E1B>.

110 CAHROM, 2013, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016801e8e4b>. To anxiety and depression see UNDP, Health, 2012

111 UNDP, Health, 2012, pp. 40-41.

112 ERRC, Country Profile Serbia 2012.

113 UNDP, Health, 2012, p. 58.

114 UNDP, Health, 2012

115 CAHROM, 2016, p. 40.

116 ERRC, Country Profile – Serbia, 2012, pp. 11-12.

117 ERRC, Ambulance not on the Way, see: <http://www.errc.org/cms/upload/media/01/E6/m000001E6.pdf>



PHOTO: LJUBA MARICIC, SERBIA

9. ASYLUM AND FORCED RETURN

9.1. LEGAL AND POLICY REVIEW

Article 39 of the Serbian Constitution guarantees the right to leave the Republic of Serbia. Such a right may be restricted by the law for four reasons: conducting criminal proceedings, protection of public order, prevention of spreading contagious diseases and defence.¹¹⁸

The Law on Border Protection regulates border crossing with an aim, amongst others, to prevent illegal migrations. Art. 6 authorises border police to inspect whether the person crossing the border fulfils criteria for entering or exiting Serbia, the purpose of travel and to perform identity checks.¹¹⁹

With the increase of persons from Serbia applying for asylum, individual EU Member States and the European Union increased the pressure on Serbia to reduce the number of asylum seekers. Serbia adopted additional measures aimed at preventing people from leaving Serbia

which in practice led to a different treatment of Roma when they were trying to leave the country.¹²⁰

In June 2011, the Government issued the decree Regulation governing in detail the manner of exercising police powers by the border police officers and duties of the persons crossing the border.¹²¹ The decree authorises border police to ask the citizens of Serbia for a number of documents and proofs of the availability of financial means. The decree allows for arbitrary rejection of persons at border crossings and cases were recorded when Roma were rejected at border crossings and passports were invalidated.¹²²

In December 2012, a new criminal offence “Facilitating abuses to exercise rights in foreign country” was introduced to the Criminal Code, criminalising “whoever, with the intent to obtain for himself or another any benefit, performs or arranges transportation, transfer, reception,

118 Constitution of the Republic of Serbia. Official Gazette of RS, no. 83/2006 and no. 98/2006.

119 Official Gazette of the Republic of Serbia, no. 97/2008

120 Fraczek/Huszka/Körtvelyesi 2016

121 Official Gazette of the Republic of Serbia, no. 39/11

122 ERRC, Country Profile Serbia 2011-2012. Budapest 2013. Retrieved on February 22, 2017 from <http://www.errc.org/cms/upload/file/serbia-country-profile-2011-2012.pdf> (ERRC 2013)

accommodation, hides or otherwise provides that a citizen of Serbia may misrepresent that there is a threat to his human rights and freedoms in a foreign country and request the acquisition of political, social, economic or other rights, shall be punished with imprisonment from three months to three years".¹²³

REINTEGRATION OF RETURNEES

In 2012, Serbia adopted the Law on Managing Migrations.¹²⁴ The law proposes the creation of local councils of migrations and the adoption of a Local Action Plan for the Improvement of the Status of Refugees, IDPs and Returnees under the Readmission Agreement. Further relevant parts of the legal and policy framework are the Readmission Agreements that Serbia has signed with the European Union and with individual Member States.¹²⁵ Further, Serbia adopted a Strategy for the Returnees' Reintegration under the Readmission Agreement.¹²⁶ The Strategy emphasises the large share of Roma among the people who will be returned and identifies the following priority areas for interventions: access to personal documents, to adequate housing and to the educational system, social policy measures and creation of opportunities for the inclusion of returnees in the labour market. Additional policy documents such as the National Roma Strategy, but also the National Employment Strategy 2011-2020 refer to returnees under the Readmission Agreements.

9.2. CURRENT SITUATION

In the first nine months of 2016, 6535 persons from Serbia submitted first-time asylum application in the European Union.¹²⁷ In the years 2008 – 2015, 153,335 persons from Serbia asked for asylum in Member States of the

European Union.¹²⁸ The European Stability Initiative (ESI) claims that 85-90% of the applicants from Serbia are Roma, which would mean that in the years 2008 – 2015, 130,000 - 138,000 Roma from Serbia would have applied for asylum in Western Europe.¹²⁹ However, as a general rule, only very few Roma are granted asylum or international protection.

There are conflicting numbers on the actual returnees. According to EUROSTAT, cca. 88,000 Serbian citizens were returned to Serbia between 2008 and 2016, but only few of them seem to have registered with the relevant authorities. According to Serbian Commissariat for Refugees and Migration, in 2015, 3174 returnees were registered at the airport in Belgrade; 2340 of them were Roma. Until May 23, 2016, 958 persons were registered, among them 623 Roma.¹³⁰ According to UNDP, 2800 returnees were registered in 2015 and 80% of them are Roma.¹³¹

According to the EC Progress Report 2016, criminal charges were brought against 23 people in the period January 2015-May 2016 "for facilitating the abuse of the right to asylum in a foreign country".¹³²

And between June 2011 and December 2014, 7656 persons were not allowed to leave the country due to alleged abusing of the visa-free regime of the EU Member States.¹³³

NGOs working on the issue of readmission note the gap between the legal and policy framework and its implementation in reality. Returnees still face problem with access to housing and to education. The situation of children who are returned to Serbia is particularly worrying. Many children were born or socialised in Western Europe and often do not speak Serbian at all and there are only a few

123 Official Gazette of the Republic of Serbia, no. 121/12. Translation taken from ERRC 2013

124 Official Gazette of the Republic of Serbia, no. 107/12. Retrieved on May 26, 2017 from: http://www.kirs.gov.rs/docs/Zakon_o_upravljanju_migracijama.pdf

125 For the agreement with the EU: Law on Ratification of the Agreement between the European Community and the Republic of Serbia on the readmission of persons residing without authorisation, Official Gazette of RS, no. 103/07

126 Official Gazette of the Republic of Serbia, nos. 55/05, 71/05, 101/07, 65/08. Retrieved on May 26, 2017 from: http://www.kirs.gov.rs/docs/Readmission_strategy.pdf

127 Eurostat. Statistics explained. Retrieved on February 22, 2017 from http://ec.europa.eu/eurostat/statistics-explained/index.php/File:First_time_asylum_applicants_in_the_EU-28_by_citizenship_Q3_2015_%E2%80%93_Q3_2016.png

128 EUROSTAT (2015), First instance decisions on applications by citizenship, age and sex. Annual aggregated data (rounded). Retrieved on July 18, 2016, from http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asydcfsta

129 European Stability Initiative (2013), *Saving visa-free travel. Visa, asylum and the EU roadmap policy*, Berlin, Brussels; European Stability Initiative (2015), *New facts and figures on Western Balkan Asylum Seekers*, Berlin

130 Quoted after: GIZ/BFPE, *Mapping of Returnees to Serbia and Potential Migrants from Serbia*. Belgrade 2016

131 Press release of UNDP from July 13, 2016. Retrieved from <http://www.rs.undp.org/content/serbia/en/home/presscenter/articles/2016/07/13/supporting-reintegration-of-roma-returnees-in-serbia.html>

132 EC Progress Report 2016

133 Schweizer Flüchtlingshilfe, *Serbien: Ausreisebeschränkungen für Roma und Aschkali*. Berne 2015.

support programmes for the returning children in place.

The lack of implementation of the Law on Management of Migration is not least demonstrated by a report on Vojvodina which analyses in detail the application of the

policies for returnees at local level. While 31 municipalities adopted local action plans for the integration of returnees (out of 44 municipalities participating in the survey), only thirteen provided funds from the municipal budget.¹³⁴

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¹³⁴ Danilo Curcic, Report on the implementation of public policies with respect to returnees under the readmission agreement in Vojvodina. Novi Sad 2015. Retrieved on February 22, 2017 from <https://www.eurodiaconia.org/wordpress/wp-content/uploads/2016/09/Report-on-implementation-of-public-policies-towards-returnees-in-Vojvodina-according-to-readmission-agreements.pdf>

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