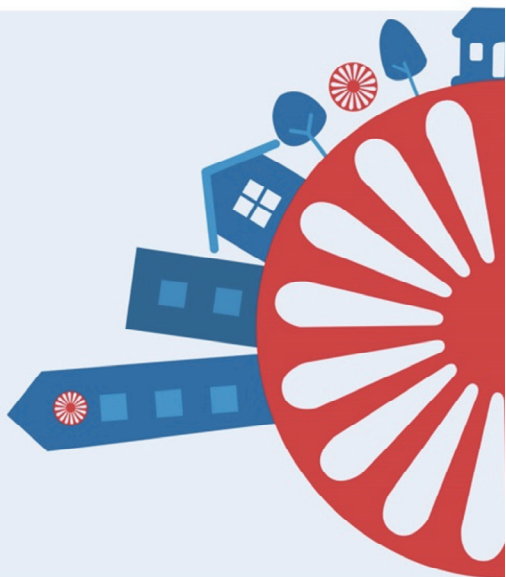


ROMA INACTED

*Promoting good governance
and Roma empowerment
at local level*



Serbia



Systemic barriers to social inclusion of Roma men and women at local level

Situational Analysis

Funded
by the European Union
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Implemented
by the Council of Europe



*Promoting good governance
and Roma empowerment
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**Systemic Barriers to Social Inclusion of
Roma Men and Women at Local Level**

Situational Analysis

ROMACTED Programme

Promoting good governance and Roma empowerment at local level

Joint Programme of the European Union and the Council of Europe

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This document was developed with the financial assistance of the European Union and the Council of Europe.

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Cover page: Marina Vasić

Published by the ROMACTED Programme

F-67075 Strasbourg Cedex

www.coe-romacted.org

www.coe.int

www.ec.europa.eu

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LIST OF ABBREVIATIONS

ARC	Association of Coordinators for Roma Issues
AP	Action Plan
CoE	Council of Europe
CSW	Centre for Social Work
EC	European Commission
EU	European Union
GDG	Good Democratic Governance
HRBA	Human Rights-Based Approach
IPA	Instrument of Pre-Accession Assistance
LSG	Units of Local Self-Government
OHMR	Office for Human and Minority Rights
OCCS	Office for Cooperation with Civil Society
CB	Coordination Body monitoring the implementation of the Strategy for Social Inclusion of Roma Men and Women
LAP	Local Action Plan
LAPE	Local Action Plan for Employment
MPALG	Ministry of Public Administration and Local Self-Government
MCTI	Ministry of Construction, Transport and Infrastructure
ILO	International Labour Organisation
MESTD	Ministry of Education, Science and Technological Development
MoLEVSA	Ministry of Labour, Employment, Veteran and Social Affairs
MH	Ministry of Health
MEP	Ministry of Environmental Protection
NCRNM	National Council of the Roma National Minority
NES	National Employment Service
CSO	Civil Society Organisations
OHCHR	Office of the High Commissioner for Human Rights
RPPS	Republic Public Policy Secretariate
SIPRU	Social Inclusion and Poverty Reduction Unit
SCTM	Standing Conference of Towns and Municipalities
SCRA	Standing Conference of Roma Associations
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

SUMMARY

This analysis has been developed within the ROMACTED Programme - Promoting good governance and Roma empowerment at local level - implemented by the Council of Europe and jointly funded by the European Union and the Council of Europe. The topic of the analysis is the social inclusion of Roma men and women in Serbia at local level, while its objective is to identify systemic barriers in the regulatory framework of the Republic of Serbia for the effective and efficient social inclusion of Roma men and women at local level.

The analysis relies on the United Nations and Council of Europe methodological frameworks on human rights and good governance standards. The data used was collected by desktop analysis and interviews with decision-makers and experts, including ROMACTED Programme facilitators. The first part presents an analysis of the legal and strategic framework of the Republic of Serbia at the national level, the second is an analysis of the situation in 11 towns and municipalities participating in the ROMACTED Programme, and the third part presents the conclusions and recommendations.

The analysis has identified systemic barriers in the following areas: local self-government, protection of human and minority rights, education, housing, employment, healthcare, social protection, anti-discrimination and gender equality. The key systemic barriers with respect to harmonisation of the regulatory framework with international human rights standards include: missing rights according to international standards, missing rights under the competence of local self-government, non-defined or vaguely defined rights, incomplete rights, insufficient safeguards for exercise of rights, limited rights, restrictive interpretation of the law, not regulated right to housing, absence of definition of public interest in compliance with international standards, lack of harmonisation of eviction and resettlement with international standards, absence of human rights-based approach and terminological challenges (for example, inconsistent use or absence of gender-sensitive language in regulations). With respect to coherence of the regulatory framework, the key systemic barriers are legal gaps, incomplete norms, contradictions in the decentralisation process and its ineffectiveness, the tendency to centralise competences, weaknesses in coordination at the national level, such as existence of parallel “tracks”, unclear division of competences between the national and local level, missing competences in

the domain of local self-government, limitations of competences of local self-government, absence of funding of competences during decentralisation, outstanding issues (such as statements of nationality), disrespect of the principles of rules of law, absence of support to local mechanisms, and unsustainable funding of housing support.

Note: all terms used in this analysis in the masculinum shall include both the masculinum and the femininum gender of the person that they refer to.

INTRODUCTION

This analysis has been conducted within the framework of the **ROMACTED Programme on “Promoting good governance and Roma empowerment at local level”** implemented in the Republic of Serbia by the Council of Europe Office in Belgrade, and funded jointly by the European Union and the Council of Europe. The purpose of the Programme is to build up political will and understanding by strengthening the capacities of local governments to develop and implement plans and programmes in order to promote the social inclusion of Roma men and women at local and regional level and strive to promote the social integration of Roma men and women at local level.

The purpose of the analysis, the first of its kind in Serbia, is to identify systemic barriers in the regulatory framework of the Republic of Serbia for effective and efficient social inclusion of Roma men and women at local level. In **methodological terms**, the analysis assesses the regulatory framework from two perspectives: 1) harmonisation with international human rights standards, using the *human rights-based approach – HRBA*¹) developed by the United Nations; and 2) coherence, based on the principles of *Good Democratic Governance – GDG*, developed by the Council of Europe, covering 12 principles², of which for the purposes of this analysis the keys are the principles of rule of law and responsiveness (the ability of local government to respond to legitimate expectations and needs of the population)³.

The **scope of the analysis** covers: the legal sources of the United Nations, the Council of Europe, and the European Union (conventions, charters, comments by committees for implementation of standards, etc.), the legal and strategic framework of the Republic of Serbia at national and local level (the Constitution, laws, strategies, action plans, articles of association, etc.), and the findings of international and national non-government organisations. With respect to the situation at local level, the analysis used the publicly available sources, whilst in the case of

1 Information on the HRBA is available at: <https://hrbaportal.org/the-un-and-hrba>.

2 The 12 principles of good democratic governance are available at : <https://www.coe.int/en/web/good-governance/12-principles-and-elope>.

3 Council of Europe, Strategy on Innovation and Good Governance at local level (extract from the Valencia Declaration, 15th Conference of European Ministers responsible for local and regional government, Valencia, Spain, 15-16 October 2007), p. 2.

two municipalities selected as best practice examples, the Belgrade Zvezdara Municipality and the Municipality of Odžaci, data was collected also directly from their representatives. The thematic coverage of the analysis includes the system of local self-government and the protection of human and minority rights, the five areas of the Strategy of Social Inclusion of Roma Men and Women in the Republic of Serbia for the period 2016 - 2025 (education, housing, employment, healthcare and social protection), and its two cross-cutting issues (anti-discrimination and gender equality). In addition to the desk research, data was also collected through interviews with decision-makers and experts, including: Nenad Ivanišević, Advisor to the Deputy Prime Minister of the Government of the Republic of Serbia and the President of the Coordination Body monitoring the implementation of the Strategy of Social Inclusion of Roma Men and Women; Ivana Antić, Assistant Minister; Biljana Marković, Head of the Department for Human and Minority Rights; Andrijana Petković, Senior Adviser within the Department of Local Self-Government of the Ministry of Public Administration and Local Self-Government; Dragana Jovanović-Arijas and Slavica Denić of the SIPRU team of the Government of Serbia; Aleksandra Petrović of the UN Office of the High Commissioner for Human Rights; and Natalija Matunović-Milošević and Igor Miščević of the programme “EU Support to Roma Inclusion – Empowering local communities for Roma inclusion” implemented by the Standing Conference of Towns and Municipalities. We hereby extend our appreciation to them all for their co-operation.

In line with the analysis methodology, interviews were conducted also with representatives of the Municipalities of Odžaci and Zvezdara, representing best practice examples also outside of the ROMACTEDP programme, specifically with Andrija Đurić, the Coordinator for Roma Issues for Odžaci; Radmila Urošević, Head of the Social Protection Division, Siniša Marinković, the Coordinator for Roma Issues, and Zlatko Petrin, Advisor for the implementation of the development strategy in the Municipality of Zvezdara. We hereby also thank them for their co-operation.

In terms of its **structure**, the analysis consists of three parts. The first part presents an analysis of the legal and strategic framework of the Republic of Serbia at the national level, in the areas of local self-government and protection of human and minority rights, education, housing, employment, healthcare, social protection, anti-discrimination,

and gender equality. The second part analyses the situation in 11 towns and municipalities participating in the ROMACTED Programme, specifically: Belgrade (Zvezdara), Kragujevac, Niš, Odžaci, Požarevac (Kostolac), Prokuplje, Smederevo, Subotica, Vranje, Vrnjačka, Banja and Zaječar. Part three presents the conclusions and recommendations related to the three aspects identified in the preceding parts, namely contextual conclusions and recommendations, conclusions and recommendations related to the existence and removal of systemic barriers in the regulatory framework, and also those related to the situation at local level. The Annex presents proposed changes and recommendations to the Constitution of the Republic of Serbia and the Law on Local Self-Government.

1. REGULATORY FRAMEWORK AT THE NATIONAL LEVEL

1.1. Local self-government and protection of human and minority rights

The Constitution of the Republic of Serbia

The Constitution of the Republic of Serbia (hereinafter: the Constitution) is based on the rule of law as the fundamental prerequisite, which is achieved, inter alia, through constitutional guarantees of human and minority rights⁴. The Constitution prescribes the following competences of municipalities relevant to the social inclusion of Roma: meeting the needs of citizens in the field of education, healthcare and social welfare, children's welfare, and overseeing the exercise, protection and improvement of human and minority rights⁵.

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) MISSING RIGHTS UNDER INTERNATIONAL INSTRUMENTS: The Constitution prescribes most of the rights enshrined in international human rights instruments ratified by the Republic of Serbia, which are

4 The Constitution of the Republic of Serbia, "The Official Gazette RS" No. 98/2006, Article 3.

5 Ibid., Article 190.

significant for the social inclusion of Roma men and women: the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on Elimination of all Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on Elimination of all Forms of Discrimination against Women, ILO Convention on Worst Forms of Child Labour, ILO Convention on Forced Labour, and the reviewed European Social Charter. However, certain rights from the aforementioned documents are not enshrined in the Constitution, although they are crucial for the social inclusion of Roma men and women at local level: *the right to a standard of living* (adequate for health and well-being⁶; adequate for himself or his family⁷; adequate for the child's physical, mental, spiritual, moral and social development⁸)⁹ and the *right to secondary education* (which shall be made generally available and accessible¹⁰). In addition to that, the Constitution does not recognise the *right to housing*, as is the case with the Revised European Social Charter, because the Republic of Serbia has not ratified the relevant article (No. 31) of that document¹¹, although it did already ratify the Charter in 2009.

2) MISSING RIGHTS UNDER THE COMPETENCE OF LOCAL SELF-GOVERNMENT: the Constitution does not prescribe the competences of local self-government in two thematic areas of the Strategy for Social Inclusion of Roma Men and Women – employment (the right to work) and housing (the right to housing), or in its cross-cutting issues – prohibition of discrimination and gender equality (or the equality of the

6 The Universal Declaration of Human Rights, Article 25, para 1.

7 The International Covenant on Economic, Social and Cultural Rights, Article 11, the Law Ratifying the International Covenant on Economic, Social and Cultural Rights, „The Official Gazette SFRY“, No. 7/1971-88.

8 The Convention on the Rights of the Child, articles 27, 93. The Law Ratifying the UN Convention on the Rights of the Child, „The Official Gazette SFRY - International Agreements“, No. 15/90 and „The Official Gazette SRY - International Agreements“, No. 4/96 i 2/97.

9 It should be noted that the EU Charter of Fundamental Rights recognises the right to social security and social benefits, including also the right to social and housing assistance so as to ensure a decent existence (Article 34), while the European Pillar of Social Rights identifies a minimum income as one of its principles, according to which everyone not having sufficient income should be entitled to an adequate minimum income ensuring dignity and effective access to goods and services.

10 The International Covenant on Economic, Social and Cultural Rights, Article 13, the Law ratifying the International Covenant on Economic, Social and Cultural Rights, „The Official Gazette SFRY“, No. 7/1971-88.

11 This article of the Charter obliges states parties to promote access to housing of an adequate standard, prevent and reduce homelessness with a view of its gradual elimination, and make the price of housing accessible to those without adequate resources.

sexes, as stated in the Constitution). These gaps result directly in sectoral laws prescribing very limited competences of local governments regarding these issues which, consequently, has an impact on their responsiveness.

3) **TERMINOLOGICAL CHALLENGES:** For public policies and regulations to be effective, they need to share a common terminology. The Constitution is an inert document which in general terms sets the foundations for social development. *HRBA* requires a human rights-based approach, while the Constitution, when setting the competences of municipalities, is still using the now obsolete approach of meeting the “needs” of citizens as the ultimate goal of public authorities. Due to this feature of the Constitution, the quickly evolving standards at the level of lower acts are often better harmonised with international standards. For example, there is the issue of the scope that the Constitution provides to enhance gender equality and, particularly, the position of Roma women in Serbia when, using the term “citizen” in the masculine, it lags behind the Strategy of Social Inclusion of Roma Men and Women which, already in its title, uses gender-sensitive language. Finally, it is legitimate also to raise the issue of why the Constitution does not explicitly name the national minorities that fulfil the requirements for noting such a status, as is the case with the Roma national minority. All the above remarks should be viewed also from the perspective of constitutional guarantees regarding prohibition of discrimination.

ANALYSIS OF COHERENCE

1) **LEGAL GAPS:** Constitutional guarantees of human and minority rights, as part of the rule of law, do not identify two key areas for social inclusion of Roma men and women which should be under the competences of local self-government (and which are, as such, identified by the national Strategy) – employment (the right to work) and (the right to) housing. Thus, it cannot be expected that local self-governments would be responsive to these areas. These solutions should be viewed from the perspective of constitutional provisions affirming the process of decentralisation in order to perform tasks of direct interest for citizens¹², and of the European Charter of Local Self-Government according to

12 Standing Conference of Towns and Municipalities, Analysis of competences of units of local self-government in Serbia, Belgrade 2010, p. 7.

which public responsibilities should generally be exercised by those authorities which are closest to the citizen¹³. That is why the obligations of the Republic of Serbia in the process of EU accession, which are under the impact of these legal gaps, are at great risk of remaining unfulfilled. The best example of this is the planned adoption of the law on social entrepreneurship, which was announced as a political promise for the first time almost a decade ago, and was subsequently made specific in the Operational Conclusions of the Seminar on Social Inclusion of Roma Men and Women in the Republic of Serbia in 2015, whereby it was expected by the end of 2015 to have “finalised the draft law on social entrepreneurship” which would improve access to the labour market and employment for Roma¹⁴, primarily at the level of local self-government. This measure also became part of the Action Plan for Chapter 23, which includes also other measures still not fulfilled, due to unclear “ownership” of employment policy between central and local authorities (a similar example is the unfulfilled finalisation of the four-year employment plan for members of national minorities, included in the Action Plan for the achievement of rights of members of national minorities, resulting from the Action Plan for Chapter 23).

2) CONTRADICTIONS IN THE PROCESS OF DECENTRALISATION: as independent assessments state, one consequence of the monotype or uniform principle (that all units of local self-government shall have the same authorities and the same competences) which is in use in the Republic of Serbia is that, when deciding on decentralisation in a certain area, decision-makers are guided primarily by the ability of municipalities with the lowest capacity to exercise this competence¹⁵. On the other hand, the Constitution regulates only in principle the source competences of units of local self-government, leaving it up to sectoral laws to regulate them in more detail, making them unstable and uncertain, as they greatly depend on changes in laws in different areas¹⁶. Thus, the Constitution and lawmakers, on the one hand, limit the coverage of decentralisation by designing standards according to the realistic potential of their implementation by the least developed local

13 European Charter of Local Self-Government, Article 4, para 3.

14 Seminar: Social Inclusion of Roma Men and Women in the Republic of Serbia, 11 June 2015 – Operational Conclusions, p. 7.

15 Models of organisation of local self-government, PALGO centre, Belgrade 2008., p. 185;

16 Standing Conference of Towns and Municipalities, Analysis of competences of units of local self-government in Serbia, Belgrade 2010., p. 6.

self-government whilst, on the other hand, they leave a lot of room for “creative” interpretation of competences, wishing to encourage these same self-governments (or only the more developed ones) to take upon themselves greater responsibility in this domain. This approach in principle fits the concept of decentralisation which, according to the Strategy of Public Administration Reform in the Republic of Serbia, consists of achieving higher quality in meeting the needs of citizens. In times of economic and social development, this kind of approach might make sense for a country with highly heterogeneous territorial development, such as Serbia, but at time of economic crisis and austerity measures, it actually led to a halt in decentralisation and a specific paralysis of local self-governments which switched to survival mode, performing only the necessary functions explicitly made part of their competences. In practice this often results in controversies, caused by the fact that, for instance, city municipalities are prohibited from providing social services (as it is not provided for in the city or municipality statutes) whilst, on the other hand, there are many citizens on hold as potential beneficiaries of such services. Policies for the social inclusion of Roma men and women were certainly among the hardest hit during recent years exactly due to this combination of the normative and actual situation. According to a statement by an interviewee during the preparation for this analysis, Roma inclusion is not a priority on the agenda of local self-governments, and units of LSG should have greater and clearer competences. It is a dominant impression that at the level of local self-government there is no “real dialogue” on any issue relevant to the social inclusion of Roma men and women. The positive legal framework which is expected to show the significant level of decentralisation is only make-believe, while the broader context on this issue shows a tendency of centralisation of competences, implying that in recent years formally (by regulations) and actually (by distribution of resources and political influence) there has been an increased exercise of public competences at the central level, at the expense of the local level. Similarly, according to another interviewee, “goodwill” and “enthusiasm” are factors behind the rare remaining best practice examples at local level in terms of social inclusion of Roma men and women (which manage to achieve proportionally more with weak resources). According to independent reviews, when it comes to competences for performing functions relevant to the social inclusion of Roma men and women, one of the key barriers is that the care for the exercise, protection and enhancement of human and minority rights has remained insufficiently

elaborated in law¹⁷. On the other hand, according to some assessments, it is exactly the Roma population amongst all vulnerable groups which is receiving the greatest attention at the level of local self-government, since as many as 45% of units of LSG (on a sample of 60 towns and municipalities) are implementing special measures to achieve their full equality¹⁸. In any case, the contradictions “built into” the decentralisation process contribute also to such contradictory perceptions of success of social inclusion of Roma men and women at local level.

The Law on Local Self-Government

The Law on Local Self-Government prescribes the source competences of municipalities, including the following competences relevant to the social inclusion of Roma men and women: adoption of spatial and urban development plans; meeting citizens’ needs in the field of education (pre-school, primary and secondary education, and upbringing), healthcare, social protection and protection of children; ensuring the protection of rights of vulnerable groups; and achievement, protection and improvement of human and minority rights and gender equality¹⁹. The Law on Financing of Local Self-Government prescribes the criteria for general transfers, to which all units of LSG are entitled, and the right to non-earmarked transfers more specifically, based on the decision of the competent public administration authority.

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) MISSING RIGHTS: In line with the constitutionally prescribed competences of local self-government, the Law on Local Self-Government sets out the competences of local self-government with respect to the right to education, healthcare and social protection. At the same time, in line with the constitutional provisions, it does not prescribe the competences of local self-government with respect to the right to work (employment) and the right to housing, as two thematic areas of

17 *Ibid.*, p. 12.

18 Standing Conference of Towns and Municipalities, Assessment of impacts and capacities of units of local self-government in implementing the principles of good governance, p. 34.

19 the Law on Local Self-Government, “The Official Gazette RS, No. 129/2007, 83/2014 - other laws, 101/2016 - other laws and 47/2018, Article 20, para 1.

the National Strategy for Social Inclusion of Roma Men and Women – employment (the right to work) and housing (the right to housing). Equally, it does not prescribe the competences of local self-government in one of the two cross-cutting issues of the Strategy – anti-discrimination. As assessed in one of the interviews conducted during preparations for this analysis, at the level of local self-government there are no “vital competences” to address the issue of poverty and other key issues relevant to the position of Roma men and women.

2) NON-DEFINED RIGHTS: The Law on Local Self-Government prescribes a new competence for local self-government compared to what is set out in the Constitution – ensuring the protection of rights of vulnerable groups. This raises the question of what these rights are. Are they the same ones already identified by the Constitution (for example, the right to work, education, social protection) or are they perhaps some new ones? It is also not clear what standards the legislator was led by when proposing this norm. In addition to that, the Law, in contrast to the Constitution, explicitly identifies the competence of local self-government for gender equality. Additional confusion results from the fact that the Constitution does not know the concept of “gender equality”, but only the “equality of the sexes”. Finally, although this issue cannot be discussed in detail due to the limited scope of this analysis, it is important to note the term “children’s protection”, used both by the Constitution and the Law on Local Self-Government when identifying the competences of local self-government. It is also used in functional budget classification, but not the sectoral terms of public policies, as they are defined by competences of line ministries. In practice it results in vague borders between competences of national and local authorities and hinders the development of a strategic approach to children’s protection as a whole, which is an integral part of the social protection system and social policy.

ANALYSIS OF COHERENCE

1) INCOMPLETE NORMS: In line with the constitutionally prescribed competences of local self-government, the Law on Local Self-Government (as well as the uniform inventory of tasks performed at local

government level²⁰) elaborates upon the constitutional norm on competences of local self-government, while adding two competences – one which is partial (adoption of the spatial and urban development plan) and another which is not defined (ensuring the protection of rights of vulnerable groups). With respect to these competences, a number of questions arise: primarily, which policies do they belong to? Is the adoption of the spatial and urban development plans a part of economic development policy, housing policy, or some other policy? When it comes to ensuring protection of the rights of vulnerable groups, it would be logical to assume that it is part of social policy, but it is unclear whether it would be a reliable basis for policy making. These are all legitimate issues which question the assessment stated in the Strategy of Public Administration Reform in the Republic of Serbia that, through the Law on Local Self-Government, significant competences have become source tasks of units of local self-government. Formally speaking, that assessment can be considered correct, particularly compared to the previous situation. But when looking at the effectiveness in implementing the Law and the responsiveness of units of local self-government based on its norms, the success of the normative decentralisation process can easily become questionable. Therefore, it is not sufficient to conclude that the failure of that process lies in lack of staff, equipment or funding, as is stated in the Strategy, but it must be concluded that incomplete norms within the Law on Local Self-Government are a systemic barrier to effective decentralisation, including in policies related to social inclusion of Roma men and women.

2) UNCLEAR DIVISION OF COMPETENCES: Introducing new rights is not just a theoretical issue, because it introduces from its side additional confusion in the otherwise contentious issue of differentiating between source competences of local governments and delegated tasks, which often happens in practice. For example, in the case of the competence “ensuring protection of vulnerable groups”, it is unclear which competent national authority (line ministry) has the right and the obligation to supervise its implementation (provided that it is not just the administrative inspectorate as the general supervision body monitoring the implementation of the Law on Local Self-Government). Additionally, is the new competence a new area already covered by the Strategy for

20 The document is available at the website of the Ministry of Public Administration and Local Self-Government: <http://mduls.gov.rs/wp-content/uploads/Copy-of-Jedinstveni-popis-poslova.pdf?script=lat>.

Social Inclusion of Roma Men and Women? The Strategy of Public Administration Reform of the Republic of Serbia recognises as one of the key problems the existence of vagueness as to whether some tasks are the source or delegated scope of work of units of local self-government, as well as the fact that the laws are not implemented uniformly and are not sufficiently supervised at the national level. According to independent reviews, the Law on Local Self-Government also creates problems in implementation because it does not prescribe the consequences for the LSG in case they fail to perform tasks from their scope of work²¹. As one interview during the preparation of this analysis pointed out, units of LSG often contact the Ministry of Public Administration and Local Self-Government (MPALG) asking for interpretation of regulations and it is often the “coordinator” of tasks which are not within its competences, although, according to the same interviewee, the Law on Local Self-Government adequately prescribes the key competences of local self-government, leaving the regulation of other competences to sectoral laws. In any case, due to the lack of clarity and incompleteness of the legal framework, the Strategy of Decentralisation of the Republic of Serbia is due to be adopted. However, according to publicly available information, the first activity in this respect which was planned for 2019 is to develop the policy paper which is to “set the direction as to whether this will mean drafting the Strategy of Decentralisation or a programme document for the reform of the local self-government system”²². According to the Action Plan for Implementation of the Strategy of Public Administration in the Republic of Serbia for the period 2018-2020, the deadline for the development of this paper was the fourth quarter of 2019²³. According to information received from one interview during the preparations for this analysis, the MPALG, based on a decision by the Council for Public Administration Reform of the Government of the Republic of Serbia, adopted in June 2019, started preparing the Programme of Reform of the local self-government system in the Republic of Serbia, instead of the Decentralisation Strategy. As stated therein, this document is to provide a contribution to defining the future direction of the reform in the local

21 Standing Conference of Towns and Municipalities, Analysis of competences of units of local self-government in Serbia, Belgrade 2010., p. 5.

22 „Reform of the Local Self-Government System”, source: <http://mduls.gov.rs/reforma-javne-uprave/reforma-sistema-lokalne-samouprave/?script=lat>, on 29.11.2019.

23 The Government of the Republic of Serbia, Action Plan for Implementation of the Public Administration Reform Strategy in the Republic of Serbia for the period 2018-2020, p. 5.

self-government system, in order to strengthen its capacity to perform source and delegated tasks and competences and improve the quality of services, in line with measure 1.2. of the Action Plan for Implementation of the Public Administration Reform Strategy for the period 2018-2020. There are two activities which certainly should be part of the analytical basis for this process, as is also envisaged by the aforementioned Action Plan, specifically: 1) conduct a functional review of 20 units of local self-government, in order to provide support for functional organisation of tasks, the deadline for this activity being the third quarter of 2019, with the MPALG the entity in charge (it would also be useful to conduct a functional analysis of the competences of local self-government for the tasks of social inclusion of Roma men and women, either in all 20 or just in some selected units); and 2) conduct surveys of satisfaction, requests and expectations with respect to quality of public services, the deadline for this activity was set to the fourth quarter of 2019 (the entity in charge was also the MPALG). The second activity should be viewed also in the context mentioned by one interlocutor in an interview conducted during preparations for this analysis. Namely, as was stated, the absence of mapping the users' needs in the field is a systemic barrier for social inclusion of Roma men and women. Mapping is mostly not done in the course of public policy cycle, and instead previous situation analyses are quoted, made mostly within donor projects, and they often include obsolete data. For example, in the field of housing there is no uniform estimation of works, geodetic surveys and the necessary legal aid, but cases are inventoried and are resolved individually. The database of Roma inclusion is not used significantly, and the main source of data quoted as used is the records of the Coordinator for Roma Issues.

3) FINANCING NOT HARMONISED WITH DECENTRALISATION OF COMPETENCES: Despite the fact that the Law on Local Self-Government regulates the competences of LSG, along with the national authorities, for the area of education, healthcare and social protection, and children's protection, ensuring the protection of rights of vulnerable groups, the exercise, protection and enhancement of human and minority rights, and gender equality, the Law on Financing Local Self-Government prescribes the criteria for general transfers only for the areas of education (the number of classes and facilities in primary and secondary education) and children's protection (the number of children covered by direct children's

protection)²⁴. Thus, the absence of regulating the manner of financing of areas key for the social inclusion of Roma men and women – healthcare and social protection in the broad sense, as well as the aspects of gender equality – not only contradicts constitutional norms and solutions of the Law on local Self-Government, but also represents a systemic barrier to responsiveness of units of local self-government in these areas. Financing of units of local self-government in such circumstances is done through earmarked transfers (narrowly speaking), so the Republic “may provide for units of local self-government earmarked transfers”²⁵, based on a decision and criteria of the relevant ministry or special organisation. This weakness was also recognised by the Strategy of Public Administration Reform in the Republic of Serbia as a key problem happening in practice, which is reflected in vaguely defining financing for tasks of the local self-government and the need for local authorities from time to time to receive additional revenues in order to perform tasks falling within their source competences. Additionally, this strategy identified a systemic barrier – which, as such, impacts also the process of social inclusion of Roma men and women at local level – specifically, that the introduction of new source and delegated tasks is not always accompanied by ensured additional funding, or other resources. For that reason it was concluded that there is much room for “improvement of and systemic implementation of comprehensive decentralisation”²⁶. As was stated in one of the interviews conducted in preparation for this analysis, general transfers (not earmarked transfers), according to the Law on Financing of Local Self-Government, are aimed at enabling units of local self-government to fund the performance of its competences (not only those which are explicitly stated, such as education and children’s protection). It is also stated that it is the intention of the Ministry of Finance, as the authorised proposing entity for this law, in the forthcoming period to terminate or minimise the right to earmarked transfers, in line with the strategic direction towards developing the capacities of local self-government to increase its own revenues. In any case, also according to independent studies, the existence of such a complex system for

24 The Law on Financing of Local self-Government, “The Official Gazette RS”, No. 62/2006, 47/2011, 93/2012, 99/2013 - adjusted RSD amounts., 125/2014 - adjusted RSD amounts., 95/2015 - adjusted RSD amounts., 83/2016, 91/2016 - adjusted RSD amounts., 104/2016 - other laws, 96/2017 - adjusted RSD amounts., 89/2018 - adjusted RSD amounts, and 95/2018 - other laws), Article 42.

25 Ibid., Article 45, para 1.

26 The Government of the Republic of Serbia of Public Administration Reform in the Republic of Serbia, p. 2.

financing local self-government is a challenge which makes it even harder to differentiate between source and delegated tasks of LSG, because it is difficult to determine how much units of LSG receive in form of transfers for their source tasks and how much for performing delegated tasks²⁷. Such an incomplete legal framework results in the fact, according to some assessments in interviews conducted in preparation for this analysis, that it is very difficult to identify the exact amount of funds for social inclusion of Roma men and women at local level, even in the budgets of such LSG which set aside significant amounts for this purpose, since such funds are included among funds intended for services involving also other categories of beneficiaries. At the same time, the development of Local Action Plans (LAP) is often not accompanied by assessment of the necessary budget appropriations. Independent studies also point to numerous challenges related to the link between LAP and the budgets of units of local self-government: LAP state results which are seldom based on the actual capacities and competences of LSG, there is no link between the measures included in the LAP and the programme budgets, LAP are not accompanied by the assessment of necessary funds in as many as one third of cases, and, when such assessment exists, there is no division between budget and donor funds²⁸. That is why it is proposed to introduce an innovative and appropriate instrument of budgeting responsive to Roma, which should also be regulated by the law. A guarantee for the success of this process could be to include in it since the very beginning and throughout monitoring the Roma population from substandard settlements. On the other hand, as also stated in the interviews, it is necessary to take into consideration the reality that line ministries are facing difficulties in preparing forms for financial impact assessment (FIA forms), due to lack of expertise in assessing the financial impacts of regulations and policies. For that reason, as was proposed in one interview, a possible systemic solution could be the introduction of quotas in the national budget for implementation of the Action Plan for Implementation of the Strategy of Social Inclusion of Roma Men and Women (which could be taken as a model to the level of local self-government). Related to this issue, in the opinion of one interviewee, is the lack of funds for local *grassroot*

27 Standing Conference of Towns and Municipalities, Analysis of competences of units of local self-government in Serbia, Belgrade 2010., p. 4.

28 Standing Conference of Towns and Municipalities: Situation analysis of existing local policies, measures and mechanisms for Roma inclusion.

organisations. As was stated, although there is a critical mass of civil society organisations active in quality and authentic advocacy in the area of social inclusion of Roma men and women (in contrast with some other vulnerable groups, in the same opinion), they are often forced to apply for funds under national funding competitions whereby they, in a way, become dependent on state institutions. This gives rise to risks that their critical approach may be under threat, and thus also their basic role in advocacy. According to another opinion, presented in an interview during preparations for this analysis, there are many best practice examples at local level which should be disseminated through actors such as the Standing Conference of Towns and Municipalities (SCTM). At the same time, it was assessed that civil society organisations (CSO) are not sufficiently organised or active, not having sufficient awareness of their role in the social inclusion of Roma men and women, and the projects are mostly seen as “survival mechanisms”, and not mechanisms to address challenges in the community.

The Law on the Protection of Rights and Freedoms of National Minorities

The Law on the Protection of Rights and Freedoms of National Minorities prescribes the competences of units of local self-government with respect to the possibility to assist professional development of teachers for teaching in the language of national minorities within higher education²⁹.

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) MISSING RIGHTS: The Law on the Protection of Rights and Freedoms of National Minorities prescribes the competence of units of local self-government only in the field of education, and this specifically with respect to the possibility to assist professional development of teachers for the needs of teaching in the language of national minorities

²⁹ The Law on the Protection of Rights and Freedoms of National Minorities, “The Official Gazette of SRY”, No. 11/2002, „The Official Gazette of Serbia and Montenegro”, No. 1/2003 – The Constitutional Charter and „The Official Gazette RS”, No. 72/2009 - other laws, 97/2013 - Constitutional Court decision i 47/2018), Article 14;

within higher education. The question is why similar provisions were not included by the Constitution and the Law on Local Self-Government with respect to other rights for which there are competences of units of local self-government, referring to policies of social inclusion of Roma men and women, such as the right to healthcare and social protection. In addition, the Action Plan for Chapter 23 explicitly lists the competences of local self-government in implementing relevant activities in this domain, such as developing and further strengthening the network of Coordinators for Roma Issues and coordinated collection and processing of analytical data in five priority areas. According to an opinion stated in an interview conducted during preparations for this analysis, the Law on the Protection of Rights and Freedoms of National Minorities is of “declarative nature” and it sets the standards as the first regulation which regulated this matter, having in mind the key features of national minorities being education, culture, and information. Yet, there is an outstanding issue of why, since the adoption of this law in 2002, with the exception of teachers, there is no possibility envisaged for other mechanisms for social inclusion of Roma men and women at local level by building capacities in a similar manner by local self-governments, in line with their competences. Such activities could be viewed also as a contribution to implementing the Action Plan for achievement of rights of national minorities, such as promoting flexible application of introducing minority languages in official use in areas where national minorities traditionally live, and raising awareness of national minorities about exercising the right to the use of minority languages in contact with local authorities and other competent public administration bodies in areas where national minorities live. Such standards should be viewed also from the perspective of obligations undertaken by the Republic of Serbia when ratifying the International Convention on Eliminating all Forms of Racial Discrimination³⁰, according to which states parties should guarantee to all, among other things, the enjoyment of right to protection in case of unemployment, healthcare, use of social services and education and occupational training, irrespective of ethnic origin. In this context one could consider the issue mentioned in an interview conducted during preparations for this analysis, which is related to ensuring personal documents, where local mechanisms also have a major

30 International Convention on Elimination of all Forms of Racial Discrimination, Article 5, the Law Ratifying the International Convention on Elimination of all Forms of Racial Discrimination, “The Official Gazette SFRY” No. 31/67.

role (particularly the Coordinator for Roma Issues). Namely, as assessed, despite doubtless results achieved in this respect, the challenge still persists in cases where parents of newborns do not have personal documents, because the newborn also leaves the maternity hospital without personal documents. Related to this specific issue, there is still an unresolved competence between the MH and the MoI, and according to one proposal a possible solution could be issuing a temporary birth certificate from the registry of births, as a way to overcome this situation and have the whole family integrated in the system. The UN Human Rights Committee made a recommendation to Serbia in its observations on the implementation of the International Covenant on Civil and Political Rights to “facilitate and enable the registration of children of parents who do not possess personal documents”³¹. Non-governmental organisations have also drawn the attention of state bodies to the violation of rights of the child which occurs in cases when mothers of newborns do not possess personal documents³². In any case, the solutions in the Law on the Protection of Rights and Freedoms of National Minorities do not match the need to provide integrated support to the social inclusion of Roma men and women by supporting local mechanisms and thus this is a systemic barrier to progress in this area. There is a separate (and legitimate) question regarding the manner in which to regulate the necessary solutions, or whether it would be more adequate to regulate this support by another regulation, for instance the Law on Local Self-Government, as was mentioned in one of the interviews.

ANALYSIS OF COHERENCE

1) MISSING COMPETENCES: As stems from the Law on the Protection of Rights and Freedoms of National Minorities, local self-governments do not have the competence that would be needed to implement activities in order to strengthen mechanisms which serve them exactly to exercise the competences entrusted them under the Law on Local Self-

31 The UN Human Rights Committee, Concluding observations regarding the Third periodical report by Serbia, 2017, p. 4.

32 “Praxis is demanding that it be enabled for every child to be inscribed in the registry of birth certificates immediately after birth”, source: <http://www.praxis.org.rs/index.php/sr/praxis-in-action/social-economic-rights/item/1422-praxis-requests-that-birth-registration-immediately-after-birth-is-available-to-every-child/1422-praxis-requests-that-birth-registration-immediately-after-birth-is-available-to-every-child>, as of 15.12.2019.

Government. This is a systemic barrier which reduces their responsiveness. A partial approach to strengthening one single mechanism, the teaching staff, is not sufficient to achieve the strategic objective of integrated support to support to Roma men and women. Elements of this support which clearly speak of the need to support the education system in parallel with support provided in other systems of strategic relevance are included in the in the Action Plan for Chapter 23. For example, it is planned to improve the educational status of Roma based on improved co-operation between the existing mechanisms, as well as providing resources for community services directed to the social inclusion of Roma children, through providing support in learning, including extra-curriculum activities and development of additional skills for the labour market. Additionally, the Action Plan for the achievement of rights of national minorities already pointed to some systemic barriers in exercising competences of local self-government, and the need was identified to change and amend the Law on the Protection of Rights and Freedoms of National Minorities in order to ensure affirmative measures for employment of national minorities in the public sector. These activities are based on the findings of the European Commission which, in its Serbia Report for 2019, assessed that Roma continue to be underrepresented in public administration, and it recommended, among other things, that job descriptions for the local Coordinator for Roma Issues be harmonised and institutionalised across Serbia. Additionally, the UN Human Rights Committee invited Serbia to strengthen its efforts in order to increase the representation of Roma in state bodies and bodies of local self-governments, including also “adequate special temporary measures”³³. One of the key challenges mentioned in the interviews conducted in preparation for this analysis was the prohibition of employment in the public sector. In some assessments, the state, as the biggest employer, practically closed its doors to the Roma population and thus pushed them into the “grey zone”. On the other hand, it was stated that employment, in both the public and private sectors, is a problem not only for the Roma, but also for other categories of the population. In rare cases, employment of new civil servants and public employees in local self-government, as a rule, does not provide an opportunity for members of vulnerable groups. At the same time, there is cause for concern with respect to the findings of the Report on

33 Human Rights Committee, Closing observations regarding the third periodical report by Serbia, 2017, p. 10.

Implementing the Operational Conclusions from the seminar on the “Social inclusion of Roma men and women in the Republic of Serbia for the period October 2017 – October 2019” that the activity of adopting new rulebooks on internal organisation and job systematisation by units of local self-government is still not completed, using the model including the position of Coordinator for Roma Issues, as developed by the SCTM. As stated in an interview conducted in preparation for this analysis, prohibition of employment in the public sector is a systemic barrier to strengthening capacities of local self-governments for the tasks of social inclusion of Roma men and women. Even when an exemption from this prohibition was officially requested from the Ministry of Finance in order to engage the Coordinator for Roma Issues, it was rejected. It is clear that legal recognition of competences of local self-governments over other mechanisms at local level, primarily for the Coordinator for Roma Issues, would represent a systemic solution and a message to units of local self-governments that they have a legal and political obligation to respond to legitimate expectations and needs of the population in their territory by providing support to such mechanisms, including also by systematising their posts or tasks. The European Commission (EC) in November 2019 warned that there is a “serious delay in establishing the legal basis for Coordinators for Roma Issues and pedagogical assistants”³⁴. As was stated in interviews conducted in preparation for this analysis, the priority issue which needs to be resolved in the forthcoming period is the legal definition of the status of Coordinator for Roma Issues, healthcare mediators and pedagogical assistants in units of LSG. Regretfully, although these institutions rely on the work of these mechanisms and donors are investing significant resources in their work, line ministries have not done much in ensuring their sustainability. Specifically, a view was expressed that the status of Coordinator for Roma Issues should be regulated by the Law on Local Self-Government. This mechanism should enjoy greater national “backing” through legally designating the MPALG as the ministry in charge. Without it, it was stated, the coordinators are left to themselves and are vulnerable to any politically motivated change. According to the findings of research dealing with the position of Coordinator for Roma Issues, monitoring and evaluation of programmes for social inclusion of Roma men and women in units of local self-government is regulated in a very irregular manner. Respondents stated

34 European Commission, Non-paper on the current status of Chapters 23 and 24 for Serbia, November 2019, p. 12.

as competent authorities the centres for social work, the assembly of the LSG, members of the municipal council, a separate appointed body, and the economic development office, while in some units of LSG the respondents stated that there is no such body³⁵. That is why the Ombudsman made a recommendation to the Ministry of Public Administration and Local Self-Government to “undertake all measures, including adoption of relevant regulations and setting of criteria to encourage units of local self-governments to organise within their administrations effective performance of tasks which refer to Roma integration”³⁶. As noted in one of the interviews conducted during preparations for this analysis, the MPALG sent a letter to all units of local self-governments stating that in the period of fiscal consolidation and reorganisation they should take care to retain Coordinators for Roma Issues wherever there is need for their work, which was recognised by the LSG as considerable support. According to these instructions, if it is not possible to extend the work engagement of the Coordinator for Roma Issues, their tasks should be added to job descriptions for some other posts within the local government. The MPALG also developed a draft rulebook on organisation and systematisation of posts in city and municipal administrations, technical services and special organisations, including the post of Coordinator for Roma Issues. According to the same opinion, what is lacking is the evaluation of the coordinators’ work, as well as the mapping of models applied in this respect by units of LSG, since there are different practices among them. During another interview conducted in preparation for this analysis, a need was stated to legally regulate also the status of mobile teams, as a requirement for sustainability. As stated, they are not part of only one system, for example, social protection services, but they have a broader role and, in addition to operational activities, they also cover strategic activities. Here it is necessary to note the following research findings: job descriptions for persons engaged within the mechanisms for inclusion of Roma men and women at local level overlap to a certain extent; the position of mobile teams is less favourable than that of other mechanisms, because there is no legal basis for their establishment and their funding is not mandatory;

35 Standing Conference of Towns and Municipalities, Guidelines for coordinators of Roma issues in local self-governments who are monitoring Roma inclusion at local level, Belgrade 2016, p. 17.

36 Ombudsman, Opinion No. 40949 of 21.10.2016, p. 4-5.

there is noticeable fatigue from establishing different coordination bodies at local level³⁷.

2) UNRESOLVED ISSUES: In the context of the Law on the Protection of Rights and Freedoms of National Minorities it is possible to consider also the issue mentioned in one of the interviews conducted in preparations for this analysis. Namely, as stated, one of the key barriers to achieving the measures of social inclusion of Roma men and women and, at the same time, a cause of malpractice, is the statement of belonging to a certain nationality. The problem is that there is no uniform form for making such a statement which is certified by the National Council of the Roma National Minority (NCRNM). In addition to this modality, it is also possible to enter one's nationality in a birth certificate, based on the Law on Registry Books, but there is no data available on the number of persons who in this way declared that they are Roma through nationality. In any case, the problem in both cases is the politicisation of the process of making the declaration and absence of legal provisions which could be of assistance in resolving this issue, at least by accurately describing its formal characteristics (for example, by prescribing the form to be used). According to an opinion presented in one of the interviews conducted in preparation for this analysis, declaring nationality and records in this area should certainly be improved, and it should be done using best practice examples, where the Council of Europe could be of assistance.

37 Standing Conference of Towns and Municipalities: Situation analysis of existing local policies, measures and mechanisms for Roma inclusion.

STRATEGY FOR SOCIAL INCLUSION OF ROMA MEN AND WOMEN

The Strategy for social inclusion of Roma men and women in the Republic of Serbia for the period of 2016 -2025 states, as one of the reasons for its adoption, the need to “develop capacities and responsibility of public administration bodies and local self-governments to efficiently ensure the exercise and protection of rights of persons of Roma nationality”³⁸, including also securing of funding in the budgets of LSG. It also states that social inclusion of Roma men and women is implemented in the local community. Exercising the right to education, work, adequate housing and health care requires specific steps, but they are implemented from the national level with considerable difficulties. The reason for this is that it is not cost-efficient and requires additional human and material resources that the country does not have. That is why decentralisation of tasks related to implementing the policy of inclusion of Roma men and women, as proposed by the Strategy, is a more rational approach because local self-governments have mechanisms enabling the management and implementation of inclusive policies. In addition, they are obliged to ensure the achievement of human and minority rights according to the Law on Local Self-Government. As concluded, “organisation and performance of tasks related to inclusion of Roma men and women in local community must be mandatory”³⁹.

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) ABSENCE OF HUMAN RIGHTS-BASED APPROACH: The Strategy is certainly a more modern policy document (and better adjusted to the current context) compared to the preceding strategy covering 13 areas. However, it still does not set as its primary goal the enabling of enjoyment of human rights, but instead its goal is the improvement of the socio-economic position. The general goal does mention, as a

38 Strategy for social inclusion of Roma men and women in the Republic of Serbia for the period 2016 - 2025, p. 1.

39 Ibid., p. 7.

secondary issue, the full respect of minority rights, nevertheless specific objectives do not talk of respecting the right to education, housing, employment, healthcare or social protection.

2) MISSING RIGHTS ACCORDING TO INTERNATIONAL HUMAN RIGHTS STANDARDS: as was the case with the Constitution and the Law on local Self-Government, the Strategy itself also does not recognise the right to an adequate standard of living. A consequence of this is that, in the field of social protection, there is a partial approach to social inclusion of Roma men and women, by improving access to monetary benefits. The adequacy of these benefits is completely neglected, although it is crucial in terms of an adequate standard of living. Additionally, there is partial attention to enabling equal rights to women and men to enjoy all economic, social and cultural rights; it is not defined in a comprehensive manner anywhere as a general goal or specific objective. For example, only one measure in the area of housing has a gender aspect, while in the area of healthcare the gender perspective is developed in one third of all measures. We also cannot talk of gender-sensitive indicators. This all results in the fact that the cross-cutting issue of gender equality is uneven and poorly developed. On the other hand, a positive step is seen in a consistent use of gender-sensitive language.

ANALYSIS OF COHERENCE

1) ABSENCE OF RESPECT OF RULE OF LAW PRINCIPLE: The rule of law standard implies supremacy of regulations over other social norms. With respect to public policies, the Law on the Planning System of the Republic of Serbia prescribes the obligation to adopt action plans along with strategies (of which it is to be an integral part), but not later than 90 days following strategy adoption⁴⁰. Exceptionally, action plans may be adopted for shorter periods of time, in which case a new one must be adopted in a timely manner for the next period of strategy implementation⁴¹. The fact that the Action Plan for Implementation of the Strategy of Social Inclusion of Roma Men and Women for the period 2019-2020 was not adopted at the latest by the end of 2018 (as was envisaged by the Operational Conclusions) is a systemic barrier to social

40 The Planning System law of the Republic of Serbia, "The Official Gazette RS" No. 30/2018, Article 18, para 2 i 3.

41 Ibid., para 7.

inclusion of Roma men and women at local level. Additionally, although there is also an obligation to adopt reports on strategy and action plans implementation (120 days after the expiration of each three calendar years since the strategy adoption, or 120 days after the expiration of the date of adoption of action plans), the Government of Serbia has not yet adopted a single official report in this respect. Finally, this is a violation of the obligation undertaken by the Action Plan for Chapter 23, according to which there is an obligation to monitor the achievement of Strategy objectives, among other things through regular meetings with competent authorities and bodies, including units of local self-governments and public enterprises.

2) EXISTENCE OF PARALLEL “TRACKS”: although it is significant that the area of social inclusion of Roma men and women has been recognised as a priority in the process of EU accession, there is a challenge in terms of existing parallel and overlapping processes which jointly make up the mechanism whose complexity hinders its monitoring. In addition to the Strategy and the accompanying Action Plans, there is also the Action Plan for Chapter 23, which is under review, as well as the Operational Conclusions from the Seminar on Social Inclusion of Roma Men and Women for which, as was stated in an interview conducted in preparation for this analysis, the EU is advocating that it be adopted by the Government. In addition to that, it was planned that they would not be a mandatory part of the agenda of the Sub-Committee for Social Issues. As was assessed by interviewees, it is positive that this year in Poznan, the Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process⁴² was endorsed, but the goals set within it are very general and mostly do not have relevant targets. Additionally, the Declaration brings nothing new in terms of increasing effectiveness of the process at the national level, although Serbia is not the only signatory country facing challenges of this kind. The additional “track” which has impact on the policies of social inclusion of Roma men and women is programming of donor assistance. In this respect as well, there is lack of coordination and closer links with the strategic priorities identified in the Strategy and the accompanying Action Plans, and the Action Plan for Chapter 23 and Operational Conclusions. For example, the

42 “Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process”, Roma Integration 2020/ Regional Cooperation Council, 11 July 2019; source: <https://www.rcc.int/romaintegration2020/news/323/declaration-of-wb-partners-on-roma-integration-within-the-eu-enlargement-process>.

indicative planning document of the European Commission envisaged the possibility to approve sector budget support within the IPA for the area of social inclusion of Roma men and women⁴³, in case of a comprehensive strategic framework in this area (which has been fulfilled), but there were no initiatives on the side of the European Commission in this respect. Additionally, it is unclear as to which degree the new document “National priorities for international assistance” being prepared by the Ministry of EU Integrations, will take into account the priorities identified in the framework for social inclusion of Roma men and women. There is concern also with respect to some announcements that the mechanism of convening coordination meetings regarding projects for social inclusion of Roma men and women, which has not been active recently, will officially cease to exist. Such developments would be contrary to obligations undertaken under the Action Plan for Chapter 23, which envisages the establishment of a mechanism to convene regular coordination meeting son projects aimed at improving the position of the Roma. It is therefore important to pay great attention to monitoring the achievement of the Operational Conclusions which envisage that “strategic documents of the Government and of the European Commission on programming financial assistance shall include measures for improving the position of the Roma” and that these documents be directly linked with other strategic processes⁴⁴.

3) SYSTEMIC LACK OF COORDINATION AT THE NATIONAL LEVEL: Responsiveness of local self-governments is hindered by systemic weaknesses at the national level. As is stated in the EC Report on Serbia for 2019, the institutional structure for Roma integration still remains “ineffective and complicated, without a clear division of tasks”⁴⁵. It is recommended to strengthen coordination among national and local authorities and budgeting at local level. As was stated in interviews conducted in preparation for this analysis, the Coordination Body is involved in the preparation of all relevant strategic documents and is present as a factor in policy making. In other assessments, it is not functional due to absence of representatives of some line ministries. In

43 Annex to the Commission Implementing Decision amending Commission Decision C(2014)5872 of 19.8.2014 adopting the Indicative Strategy Paper for Serbia for the period 2014-2020, p. 47.

44 The Government of the Republic of Serbia, Report on implementation of Operational Conclusions of the Seminar “Social inclusion of Roma men and women in the Republic of Serbia for the period October 2017 – October 2019”, p. 4.

45 European Commission, *Serbia Report for 2019*, p. 32.

November 2019 the EC underlined that the Body met only twice in 2019, and not six times a year as envisaged by the Operational Conclusions (which will probably also be the frequency stated in the reviewed Action Plan for Chapter 23), and it also stated that the Expert Group has never met⁴⁶. In the opinion of some interviewees, the major reason for absence of results in the process of social inclusion of Roma men and women is the lack of operational steps at ministry level, primarily in the sectors of labour, employment, social policy, and healthcare. Additionally, there is lack of cooperation among different competent ministries. At the same time, the list of members of the Coordinating Body has not been updated. That is why this issue should be urgently resolved, along with defining the tasks of its members. It was proposed that the Expert Group should consist, among others, of representatives of Roma civil society organisation, and that they should prepare proposals for the Coordination Body, which would be publicly available. Also, the sessions of this Body should refocus from presenting the implemented activities to resolving the burning and systemic issues, such as the manner of preventing the possible negative impact of laws being developed, regulatory impact assessment on vulnerable groups, and conducting consultations on proposed laws with vulnerable groups. Although it is commendable that, in March 2018, a Memorandum of Cooperation was signed between the Coordinating Body for Monitoring the Implementation of the Strategy of Social Inclusion of Roma Men and Women in the Republic of Serbia and the National Council of the Roma National Minority of the Republic of Serbia, the objective of which is, among other things “strengthening cooperation through joint action at local level in order to adequately implement the Strategy of social inclusion of Roma men and women in the Republic of Serbia and developing local action plans for Strategy implementation”⁴⁷, there is the question of effectiveness of this step due to the very limited competences of the NCRNM in the areas of culture, education, information, and official use of language and script⁴⁸. Also, in one opinion expressed in interviews, there is the question of capacities of the

46 European Commission, Non-paper on the current situation in Chapters 23 and 24 for Serbia, November 2019, p. 11.

47 The Government of the Republic of Serbia, Report on implementation of Operational Conclusions of the Seminar “Social inclusion of Roma men and women in the Republic of Serbia for the period October 2017 – October 2019”, p. 6-7;

48 The Law on National Councils of National Minorities, “The Official Gazette RS”, No. 72/2009, 20/2014 - Constitutional Court decision, 55/2014 i 47/2018), Article 10, para 1, item 10.

SCTM to adequately present the positions and opinions of LSG at Coordination Body sessions. It was therefore proposed that the SCTM should hold preparatory meetings before the session of the Coordination Body. In addition to the SCTM, the sessions of the Coordination Body should also be attended by representatives of specific units of LSG which have identified current problems. All of these are systemic weaknesses in coordinating the tasks of social inclusion of Roma men and women at the national level. They threaten also the effects of what used to be best practice examples, such as the *Database for monitoring the measures of Roma inclusion*⁴⁹. It is currently not easily accessible due to the load on servers of the National Statistical Office, where it is hosted. In some assessments, although the Operational Conclusions planned for it to be taken over by the Coordination Body (by the third quarter of 2019), it is more likely that this will be done by the SIPRU. Under such systemically unclear circumstances it is practically impossible to speak of coordination, because most data indicate that it is difficult to achieve even the basic forms of coordination, such as information exchange. As was stated in one interview, currently the dominant activity is resolving problems and exchange of information at personal level “among individuals who built cooperation links among themselves”. That is why it is not surprising that there are proposals by civil society organisations, pointing to the irregularity in holding sessions of the Coordination Body and the absence of discussing the results of implementing the National Strategy and Action Plan, to establish an agency to implement the Strategy, which is envisaged by the document itself.

Best practice examples in policy management

- Convening meetings for drafting of the Action Plan for Implementation of the Strategy of Social Inclusion of Roma Men and Women for the period 2019-2020 by the Social Inclusion and Poverty Reduction Unit of the Government of Serbia. These meetings were attended by all decision-makers, including representatives of the donor community, who had open discussions on the issues to be addressed. It is planned to organise coordination meetings in the same format to identify the need for donor funding;

49 For more information see: <http://www.inkluzijaroma.stat.gov.rs/>.

- Resolving the issue of “legally invisible” persons through the Memorandum of Understanding between the MPALG, the Ombudsman, and the UN High Commissioner for Refugees (UNHCR), which was signed in April 2012 and implemented until the end of 2016. A new two-year Memorandum of Understanding between the MPALG, the Ombudsman, and the UNHCR, with special emphasis on newborn children was signed in October 2019;
- Practice of the Ministry for EU Integrations in the process of programming with respect to identifying challenges to be resolved with EU funds, and facilitating access to donor funds;
- Establishment of local multisectoral coordination bodies for social inclusion of Roma men and women within IPA 2016, implemented by the SCTM. These bodies shall meet at least once every three months and shall consist of representatives of all relevant local institutions, such as the municipal administration and centres for social work, but also representatives of the employment system, education and law enforcement.
- “Guidelines for Roma sensitive budgeting”⁵⁰ developed by the Regional Cooperation Council (based on a model developed in Serbia, as far as the author understands). The model is currently piloted in the Western Balkans in the areas of housing and employment.

50 Source available at: <https://www.rcc.int/romaintegration2020/docs/96/guidelines-for-roma-responsive-budgeting>.

1.2. Education

*The Law on Fundamentals of the Education System*⁵¹ (Article 17) prescribes the obligation of pre-school institutions founded by units of local self-government to enrol every child to attend the preparatory pre-school programme, and the obligation of the units of local self-government to keep records and notify the pre-school institutions or primary schools delivering preparatory pre-school programmes about children of age to attend preparatory pre-school programmes (Article 22); it also prescribes the obligation of LSG to keep records, notify schools and parents about the children who are to enrol in the first grade of schools; and the obligation to fund the work of intersectoral committee for additional support and provide funding for additional support (Article 77); finance the transport of children living at a major distance from schools (Article 189).

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) MISSING RIGHTS ACCORDING TO INTERNATIONAL STANDARDS: The Law on Fundamentals of the Education System within the right to education which is guaranteed to all (Article 3) does not prescribe the right to general secondary education, in line with the International Covenant on Economic, Social and Cultural Rights. This obligation results indirectly also from the Action Plan for Chapter 23, according to which the Republic of Serbia has committed itself to increase the coverage of pupils in the education system at all levels, from the mandatory pre-school to higher education. Absence of general secondary education is a systemic cause of exclusion of the Roma population from the education system, since according to the data from the Strategy for Social Inclusion of Roma Men and Women, only 22% of Roma children attend secondary education, while this share among the general population is 89%. At the same time, outside the legal guarantees and the division of competences, by virtue of the Strategy for the Development of Education in Serbia until 2020 the burden of developing the system of secondary education is transferred to the local self-government which should, as proposed,

⁵¹ The Law on Fundamentals of the Education System, "The Official Gazette RS", No. 88/2017, 27/2018 - other laws, 10/2019 and 27/2018 - other laws).

undertake the responsibility to plan the development of secondary general and arts education in their territories, manage it and its financing.

2) **INSUFFICIENT SAFEGUARDS FOR EXERCISE OF RIGHTS:** The Law on Fundamentals of the Education System does not include sufficient guarantees for the exercise by all of their right to education, particularly with respect to the Roma population. This is in fact a violation of the obligation that the Republic of Serbia has undertaken by ratifying the Convention on Elimination of all Forms of Racial Discrimination, according to which everyone should be guaranteed the right to education and occupational training, irrespective of their ethnic origin. Data of the EC also refer to consequences of the lack of systemic affirmative action for the Roma, stated in the EC Serbia Report for 2019, according to which only 67% of Roma youth completes primary education, compared to 96% of the general population⁵². With respect to tertiary education, only 1% of the Roma population completes it, compared to 16% of the general population. In addition to this, as was stated in one of the interviews conducted in preparation for this analysis, there is a problematic issue of removing acceptance tests for enrolment in higher education, because Roma pupils and students have less success in secondary education. That is why the results demonstrated in enrolment exams help them to compensate somewhat for this weakness compared to other candidates and increase their chances of being admitted to higher education. As assessed, it is necessary already now to think about legally defined affirmative action for the enrolment of Roma students, because “otherwise the whole generation of new students will be lost”. Some provisions to this effect could be introduced in the Law on Fundamentals of the Education System, while some could be prescribed in bylaws. There was an idea presented that quotas for faculty enrolment should be removed, so that all Roma pupils who pass the entrance exam can be enrolled as students.

ANALYSIS OF COHERENCE

1) **LACK OF SYSTEM SUPPORT TO LOCAL MECHANISMS:** The Strategy for Education Development in Serbia until 2020 rightly states that the key policy with respect to primary education will be to increase the coverage of children, including Roma children. Thus, it identifies the key policy of

⁵² European Commission, 2019 *Serbia Report*, p. 33.

engaging local self-governments in monitoring the coverage of school children and actively pursuing ways for integration of all children. Another strategic direction identified by the Strategy is integrating investment in education as a priority in development plans of all units of local self-government. As was stated in interviews conducted in preparation for this analysis, in the area of education in principle it is not expected to have an interruption in the application of measures from the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the period 2016 – 2025 because there exists an “authentic interest” of the competent authorities. For example, despite the fact that the Action Plan of the aforementioned Strategy has not yet been adopted, rulebooks are being drafted on pedagogic assistance, as envisaged by the draft and the Action Plan for Chapter 23. Also, it was positively assessed that the Ministry of Education, Science and Technological Development (MESTD), in the process of developing the new strategy of education development, plans to add to that framework action plans which have so far operated in isolation, including an action plan for inclusive education. According to independent reviews, the mechanism of pedagogical assistants is the only mechanism in place for social inclusion of Roma men and women with an explicit legal basis in the law⁵³. On the other hand, among the challenges in the area of education, the Strategy identified the insufficient number of pedagogical assistants and not enough effort on the side of LSG to sensitise and motivate parents to enrol children in pre-school institutions. Another reason for concern is that, according to the recent research by the Ombudsman, most pre-school institutions do not have an engaged pedagogical assistant, while the phenomenon of segregation in primary schools is growing⁵⁴. That is why the EC in its 2019 Serbia Report recommends that job descriptions for pedagogical assistants be harmonised and institutionalised across Serbia⁵⁵. Such a situation calls for a more intense normative work of the line ministry in order to strengthen the status and functions (and also funding) through local mechanisms providing support to children from vulnerable groups in the system of education. This refers not only to pedagogical assistants, but also to

53 Standing Conference of Towns and Municipalities: Situation analysis of existing local policies, measures and mechanisms for Roma inclusion.

54 The Ombudsman, Special report by the Ombudsman on implementation of the Strategy for social inclusion of Roma men and women with recommendations, Belgrade 2019., p. 24 and 26.

55 European Commission, 2019 *Serbia Report*, p. 33.

intersectoral commissions (IRK) for provision of additional education, social and health support to pupils, for which there is also a legal basis, but the funding is left to the units of local self-government. There is reason for concern since in the forthcoming period the plan is to have only "soft" measures in the form of instructions and recommendations in this area. For example, the draft action plan for 2019 and 2020 for implementation of the Strategy for Social Inclusion of Roma Men and Women envisages that the MESTD shall develop instructions for ensuring funding to implement measures and opinions made by the IRK to provide additional free educational, social and health support to children from the budgets of LSG. Additionally, according to the report on implementation of Operational Conclusions from the seminar "Social inclusion of Roma men and women in the Republic of Serbia for the period October 2017 - October 2019", all line ministries were supposed by the third quarter of 2019 to issue recommendations to local self-governments to ensure subsidies to children from vulnerable groups, particularly Roma children, in a maximum amount prescribed by the law amounting to 80%.

2) FINANCING NOT HARMONISED WITH DECENTRALISATION OF COMPETENCES: The Strategy of Education Development in Serbia until 2020 identified as one of the key challenges in developing the system of social care and education of pre-school children the lack of funding at national and at local level, as well as a vague division of responsibility and funding among different authorities at national and local level. Despite this, the Law on Financing of Local Self-Government prescribes the criteria for general transfers only for primary and secondary education (number of classes and facilities), whereas decisions on approving additional non-earmarked transfers are the competence of the line ministry, or a special organisation. On the other hand, the Strategy of Education Development emphasised that the Republic of Serbia and local self-governments guarantee for each child aged from four years to enrolment in preparatory pre-school programmes "the opportunity to make minimum use, lasting for at least one year, of free half-day programmes to promote the development and pre-school upbringing, depending on the needs of the family and the child (approximately four hours per day, five days a week, during one school year)"⁵⁶. However, according to data presented by the European Commission in its 2019

⁵⁶ The Government of the Republic of Serbia, Strategy of Education development until 2020, p. 15.

Serbia Report, only 9% of Roma children attend kindergartens, compared to 28% of children from the general population⁵⁷. This illustrates that the system of pre-school education, which the Strategy assessed as decentralised, is not functional and does not enable equal opportunities for children from the Roma population compared to children from the general majority population., One of the probable reasons for such a situation is that the system is co-financed by LSG (80% of costs) and parents (20%), without support from the national level. Anyway, the Strategy itself states that in the preceding period coordination has not been achieved between the national level and that of local self-governments, due to which the established network of pre-school institutions is not adequately developed, particularly in rural regions and underdeveloped units of LSG. That is why it is proposed that the reform of local government system be used “to introduce a clearer division of responsibilities and competences and to establish funding mechanisms from the national budget (earmarked transfers for pre-school education and upbringing)”⁵⁸. In addition to that, it is envisaged to adopt more accurate legislation “defining the competences of national authorities and authorities of LSG to finance the system, the status of educators, quality standards, system for accreditation of pre-school institutions and programmes, salaries, employment and dismissal requirement”⁵⁹. In conclusion, it could be said that the insufficient definition of the regulatory framework for financing of the education and upbringing system at pre-school level and primary education level is a systemic barrier for effective and efficient social inclusion of Roma men and women at local level.

57 European Commission, *Serbia Report for 2019*, p. 33.

58 The Government of the Republic of Serbia, *Strategy of Education Development in Serbia until 2020*, p. 20.

59 *Ibid.*, p. 27.

1.3. Housing

*The Law on Housing and Buildings' Maintenance*⁶⁰ (Article 2) prescribes the obligation of LSG to finance sustainable development of housing, ensure adequate accommodation for evicted persons (Article 79), respect the prescribed criteria for eviction or resettlement (Articles 83-86), ensure measures of social inclusion after resettlement (Article 87), ensure resources for funding housing support (Article 116) and carry out housing projects, including planning, preparation and land interventions (Article 121).

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) NOT REGULATED RIGHT TO HOUSING: The Law on Housing and Buildings' Maintenance follows the logic of the Constitution and the Law on Local Self-Government and does not prescribe the right to housing as a separate right. As prescribed in Article 31 of the Revised European Social Charter⁶¹ (not ratified by the Republic of Serbia), states parties should recognise the right to housing and undertake measures to improve access to housing of adequate standard. The European Pillar I of social rights⁶² stipulates housing as one of the rights among social rights, implying that those in need of housing should have access to social housing or housing support of high quality.

2) ABSENCE OF DEFINITION OF PUBLIC INTEREST IN COMPLIANCE WITH INTERNATIONAL STANDARDS: The Law on Housing and Buildings' Maintenance puts an equation mark between public interest and sustainable development defined as "improving the living conditions of citizens and preservation and improving the value of housing stock while enhancing energy efficiency, reducing negative environmental impacts and promoting rational use of resources, or harmonisation between economic and social development and environmental protection in developing the housing sector; maintenance and management of

60 Law on Housing and Buildings' Maintenance, "The Official Gazette RS", No. 104/2016.

61 The Law Ratifying the Revised European Social Charter, "The Official Gazette RS – International Agreements", No. 42/09.

62 The European Parliament, the Council of the European Union and the European Commission, *European Pillar of Social Rights*.

housing buildings, residential-commercial buildings, commercial buildings, public buildings or buildings declared as cultural assets and buildings in protected cultural-historical entities, in order to prevent or remove threats to life and public health, the environment, the economy or assets of major value, and secure the building and surroundings.”⁶³ In an opinion expressed in one of the interviews conducted in preparation for this analysis, there is a systemic barrier to exercising the right to housing in the fact that regulations of the Republic of Serbia have not defined public interest in the way as it is regulated in international instruments. For example, the UN Committee for Economic, Social and Cultural Rights defined in its general comments No. 4 and 7 public interest as a reason for eviction or resettlement. In contrast to that, Serbian regulations have an excessively comprehensive and vague definition of public interest which does not provide the basis for determining the benefit for the local community. That is why there is a tendency to bridge this weakness through instructions via bylaws and manuals which are expected to provide more detail for implementation of laws, such as the Law on Housing and Maintenance of Buildings. Public interest must be defined in a way which enables that all mechanisms of housing support are directed towards meeting the needs of target groups. This means that they should enable the definition of criteria for locations which the units of LSG make available for housing construction in order to meet the housing needs of Roma men and women. Currently, LSG do not have the necessary knowledge for selection of locations from the point of view of public interest as defined by international standards. That is why, according to one suggestion, allocation of land should be accompanied by a financial analysis of benefits for the local community.

3) LACK OF HARMONISATION OF THE PROCESS OF EVICTION AND RESETTLEMENT WITH INTERNATIONAL STANDARDS: According to an opinion stated in an interview conducted during preparations for this analysis, despite the improvements in the legal framework related to the process of eviction and resettlement, international standards have not been fully transposed, so it can be said that not a single process of this type has been conducted in full compliance with international standards. The barriers are certain legal provisions, such as the provisions of the Law on Housing and Maintenance of Buildings, which make it possible to link place of residence with the access to right to adequate housing, which is

63 Law on Housing and Buildings' Maintenance, „The Official Gazette RS”, No. 104/2016, Article 2, para 1.

contrary to General Comment 20 of the UN Committee for Economic, Social and Cultural Rights. Additionally, in many cases there is a question as to whether or not accommodation which is provided in the territory of place of residence of the person meets the standards of this Committee on adequate housing. The systemic barrier exists because the evidence of place of residence is a requirement in order to access social services since, as was assessed by the UN Special Rapporteur for adequate housing, in addition to it hindering the exercise of human rights, the mechanism of permanent residence “contributes to strengthening social exclusion, stigma and discrimination”⁶⁴.

ANALYSIS OF COHERENCE

1) **NORMATIVE AND STRATEGY GAPS CAUSE POOR RESPONSIVENESS OF LOCAL SELF-GOVERNMENTS:** Normative incompleteness with respect to the right to housing, originating from the Constitution and the Law on housing and Buildings Management, results in lack of clarity as to who is the entity addressed by the activities and the Action Plan for Chapter 23 relevant to improving the housing conditions of Roma men and women. The situation is further aggravated by the fact that the National Strategy of Social Housing is not being implemented, and it was this strategy exactly which identified that its success will “at first be based on good partnership”⁶⁵ between the central and local government. Bodies of local self-governments are identified as key actors which should identify and record the actual housing needs of beneficiaries in their territories, amongst other things, and within their local housing strategies. At the same time, there is lack of clarity regarding the competences related to key activities of housing support at local level, which has also led to absence of major results, for example, in terms of establishing uniform records on homelessness to be maintained by centres for social work and implemented with co-financing from local budgets. Similarly, with respect to improving the infrastructure of substandard settlements, the Strategy states that local self-governments shall determine the level of investments through planned solutions “in line with their local planning

64 Council for Human Rights, the Report of the Special Rapporteur for adequate housing as an integral part of the right to adequate living standard and right to non-discrimination in this context on the visit to Serbia and Kosovo* (* Any mention of Kosovo, in terms of any territory, institution or population, shall be interpreted fully in line with the UNSC Resolution 1244 (1999) without prejudice regarding the status of Kosovo), 2016, p. 9.

65 The Government of the Republic of Serbia, National Strategy of Social Housing, p. 17.

policies and the nature of settlements⁶⁶. The weaknesses of such a strategic approach had a direct impact on the poor results of activities planned by the Action Plan for Chapter 23, such as the one related to finding a solution for existing substandard Roma settlements. In addition, the Strategy stated that there were no significant available finances from which it would be possible to sustainably fund social housing programmes at national or local level, so loans from international financial institutions were identified as additional sources in this area. An additional reason for concern is that the draft housing strategy has been under preparation for almost two years, although the Operational Conclusions from the Seminar on Social Inclusion of Roma Men and Women planned for the draft to be finalised by the end of first quarter of 2019. It is therefore not surprising to have heard some statements during interviews conducted in preparations for this analysis, that progress “in the field” in the area of housing depends exclusively on units of local self-government. As assessed, this refers both to construction of housing and, even more so, to the provision of infrastructure. It was stated that the key challenge of the housing strategy will be to bring the activities “down” to operational level, which is the level of units of LSG. The key problems in this area are the unresolved issues related to property rights and the inadequate quality of existing urban development plans. These are context-related issues, meaning they are related to the extent to which units of local self-government even respect the urban development plans which they adopt. According to the most recent research by the Ombudsman, representatives of units of local self-governments think that they have sufficient professional capacities to adopt planning documents related to the resettlement of substandard settlements occupied by the Roma population⁶⁷. According to expert analyses, the challenge in this area is also the attitudes of officials in local self-government, for whom the key barrier to legalisation of housing units of Roma community is that they carry the burden of proof to prove property rights over their immovable property; at the same time, they think that this is a simple procedure and that beneficiaries do not need legal support; additionally, LSG are not motivated to initiate procedures to resolve legal/property issues due to the accompanying costs which are borne by them, and also by members of Roma community who cannot

66 Ibid., p. 38.

67 The Ombudsman, Special Report by the Ombudsman on Implementation of the Strategy for Social Inclusion of Roma Men and Women with Recommendations, Belgrade 2019., p. 34.

cover them⁶⁸. That is why raising capacities of LSG to understand the needs of users, as well as the current legal framework, will be needed to achieve success of local housing policy for vulnerable population groups. It would therefore be necessary to increase their knowledge on the different forms of possible housing solutions, in direct consultations with the population of the settlements. As stated in one interview in preparation for this analysis, Roma men and women in focus groups express a desire to live in mixed communities and settlements, together with the majority population, because this has a positive impact on the quality of life and living habits of the Roma population. One possible measure of housing support is purchasing land which is currently being used, through legalisation. Land purchase, however, requires complex requirements: resolving the legal/property issues and negotiating with the property's rights holders, which are mostly from the public domain. Additionally, there is a problem that often a pre-requirement for legalisation is land parcelisation, which requires additional costs. There is also a challenge that in many communities, even after 2015, illegal construction is continuing and thus there is an increase in the amount of housing stock which is not legalised. This imposes the need to change and amend the Law on Legalisation of Buildings in order to regulate the status of buildings used by vulnerable population groups as necessary accommodation. On the other hand, there is a concern that, as in the case of education, also in this area the draft Action Plan for the Strategy of Social Inclusion of Roma Men and Women for the period 2019 – 2020 includes mostly “soft” measures of housing policy, for example: guidelines for LSG on content and manner of providing data to the MCTI for the spatial GIS database⁶⁹; guidelines/recommendations for LSG for consultations with the population of Roma settlements affected by resettlement; typologies of existing Roma settlements according to social, economic and environmental sustainability criteria; and proposals and models for improvement of sustainability of Roma settlements and improvement of legal certainty of property for Roma men and women.

68 Igor Mišćević, “Legalisation of housing buildings in Roma substandard settlements in Serbia – situation analysis and challenges”, p. 2-3.

69 Geographic information system (GIS) contains a database with results of mapping 583 substandard Roma settlements across Serbia.

2) UNSTAINABILITY OF FUNDING HOUSING SUPPORT: Since the Law on Financing of Local Self-Government does not prescribe general transfers to LSG for financing of housing policy, and since the Law on Housing and Buildings' Maintenance places the whole burden of housing policy at local level on the units of local self-government, there is a question of sustainability of financing, particularly since this is in budgetary terms the most demanding area covered by the Strategy for social inclusion of Roma men and women. That is why it is not surprising, as was stated in one of the interviews conducted in preparation for this analysis, that there is predominant inert attitude of local self-governments in addressing the housing needs of Roma men and women and that progress is often initiated – and in most cases fully funded – through donor-led project-based interventions. LSG do not even provide regular data for the GIS database, although there is quite a lot of activity on the ground. Another challenge is the weaknesses in the data provision procedures for this database, and its functionality. As stated in one interview, another problem is that the process of transferring property from the national to local level takes too long, and can threaten project implementation covering land parcels and buildings located on municipal or city territory owned by the state. An additional challenge is that not even donor interventions have achieved full sustainability due to high living costs that new residents are faced with, which compromises all efforts made in resolving their housing issues. Firstly, there is a significant burden of property tax. When utility costs are added on top (particularly for electricity, which is often a challenge for the population living in buildings owned by local self-governments), it is clear that debt is practically a certain scenario that these families are destined to. The report of the UN Special Rapporteur for adequate housing also warned that property tax is equal to monthly amounts of social benefits and that a particular reason for concern is the high price of utilities for low income residents in social housing units, due to which many of them live in fear of unsettled debts⁷⁰. However, failure to provide adequate housing in turn has negative effects on other areas and rights, such as education and standard of living, thus jeopardising the concept of social inclusion of Roma men and women which the European Commission proposed in

70 Council for Human Rights, the Report of the Special Rapporteur for adequate housing as an integral part of the right to adequate living standard and right to non-discrimination in this context on the visit to Serbia and Kosovo* (* Any mention of Kosovo, in terms of any territory, institution or population, shall be interpreted fully in line with the UNSC Resolution 1244 (1999) without prejudice regarding the status of Kosovo), 2016, p. 8.

2011 through the EU Framework for National Strategies for Roma Integration until 2020⁷¹. In addition to that, as assessed in the EC Serbia Report for 2019, accompanying housing support by additional support combining aspects of employment, education, healthcare and community development is key for a long-term, integrated and comprehensive approach⁷². That is why the UN Special Rapporteur called on the Government of Serbia, among other things, to undertake the following: conduct a national assessment of housing needs, in cooperation with local self-governments; establish sustainable procedures to improve living conditions for residents in informal settlements; and ensure access to social housing for those in need⁷³.

Best practice examples in policy management

- The participatory approach which the SCTM implemented within the IPA 2016 programme for development of urban plans was based on intensive consultations with Roma communities and focus groups in all the stages – from preparation of the planning document to its adoption. The key success factor of this process was the “translation” of the technical public policy language into terminology close to and understandable for end users. This approach has also been recognised by the professional public, so the SCTM won the prize at the 28th International Urban Planning Salon which was held in November 2019 in Niš;
- The project by the Municipality of Odžaci “For Every Roma to Have a Home” was a best practice example in managing local resources and policies and as such was presented at the Seminar for Social Inclusion of Roma Men and Women held in 2019 in Belgrade. The project was funded through IPA funds, and co-financed by the Government of the Republic of Serbia and the Municipality of Odžaci, and implemented by the Housing Centre. The project funds

71 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An EU Framework for National Roma Integration Strategies up to 2020.

72 Communication from the Commission to the European Parliament and the Council: Report on the implementation of National Roma Integration Strategies – 2019.

73 Council for Human Rights, the Report of the Special Rapporteur for adequate housing as an integral part of the right to adequate living standard and right to non-discrimination in this context on the visit to Serbia and Kosovo* (* Any mention of Kosovo, in terms of any territory, institution or population, shall be interpreted fully in line with the UNSC Resolution 1244 (1999) without prejudice regarding the status of Kosovo), 2016, p. 20.

were used to construct 24 buildings with 34 housing units in five settlements in the municipality. The success factors of this project were the commitment of decision-makers who were always available for questions regarding the inclusion of Roma men and women and the adoption of local strategic documents which were adequately funded from the municipal budget, without reducing appropriated funds in the course of the year;

- The methodology of mapping living conditions of the Roma population developed by the Regional Cooperation Council⁷⁴. The methodology is used to map settlements of the Roma population in need for improvement of living conditions.

1.4. Employment

The Law on Employment and Insurance in Case of Unemployment⁷⁵ (Article 40) prescribes the possibility of adopting Local Action Plans for Employment (LAPE) (which is co-funded by the Republic of Serbia in case more than one half of the funding is provided by the LSG or that the unit of LSG is under-developed), as well as performance of public works (Article 57).

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) MISSING RIGHTS ACCORDING TO INTERNATIONAL STANDARDS: The Law on Employment and Insurance in Case of Unemployment failed to prescribe the right to just and satisfactory compensation for work for persons to ensure that the person in question and his/her family exist in line with human dignity, and which can be supplemented by other forms of social protection, as prescribed by Article 23 of the Universal

74 Regional *Methodology on Mapping of Roma Housing*, Roma Integration 2020, Regional Cooperation Council, 2020. Publication is available at: <https://www.rcc.int/romaintegration2020/docs/126/regional-methodology-on-mapping-of-roma-housing>.

75 The Law on Employment and Insurance in Case of Unemployment, "The Official Gazette RS", No. 36/2009, 88/2010, 38/2015, 113/2017 i 113/2017 - other laws.

Declaration of Human Rights⁷⁶. Due to this, there is no guarantee for just compensation, for example, when inviting public works competitions, as the compensation awarded to engaged persons is below the minimum wage⁷⁷. In addition to that, there is a systemic barrier that, in contrast with some European countries, national regulations in the area of employment, labour and social protection are mutually contradictory with respect to the right to work and the right to a standard of living, as they exclude the possibility of providing social support to employed persons who do not have the basic minimum income. That means that the person, once he/she is activated, loses the right to monetary social benefits if he/she is earning more than the prescribed amount of such a benefit⁷⁸. As was stated in one of the interviews conducted in preparation for this analysis, changes are needed in the legal framework to remove these systemic barriers and create a motivating context for employment. According to that opinion, the current amount of the benefit is “too close to the amount that Roma can earn in the formal labour market”. That is why it is necessary to introduce solutions which would enable such persons to keep the right to financial social benefits, at least for a certain period, in parallel with obtaining the status of an employed person. This solution would require a change in the Law on Social Protection and the Law on Financial Support to Families with Children and would represent a contribution to achieving the standards of the Revised European Social Charter regarding the right to protection against poverty and social exclusion (Article 30)⁷⁹. In the context of Serbia’s accession to the European Union, it is necessary to bear in mind that the EU Pillar of Social Rights envisages the so-called Youth Guarantee, or the right of young persons to continue their education, internships, training and supply of quality jobs within four months of them becoming unemployed or leaving education.

2) LIMITED RIGHTS: the solution provided in the Decree on social inclusion measures for users of monetary social benefit with respect to whom there are possible reductions or termination of the right to

76 The Universal Declaration of Human Rights, Article 23.

77 For example, according to the competition of the National Employment Service published in March 2019, compensation to unemployed persons engaged on public works was limited to RSD 22,000 while the minimum wage for that month was RSD 26,090.

78 The Law on Social Protection, Article 81, para 1.

79 The Law Ratifying the Revised European Social Charter, „The Official Gazette RS – International Agreements“, No. 42/09.

monetary social benefit in case of undue failure to meet the obligations under the agreement on actively overcoming the user's unfavourable social situation is a reason for much concern⁸⁰. Already in 2014, the National Ombudsman submitted to the Constitutional Court a motion to assess the constitutionality and legality of this Decree, because it, as was stated "is introducing forced unpaid work"⁸¹, but the Constitutional Court has not yet ruled on this motion. The provisions of the aforementioned Decree are undoubtedly a violation of provisions of the ratified ILO Forced Labour Convention, according to which forced or compulsory labour implies "all work or service which is exacted from any person under the menace of any penalty and for which the aforementioned person has not offered himself voluntarily"⁸². Note should also be taken of the initiatives by civil society organisations related to the Law on Employment and Insurance in Case of Unemployment which prescribes that the unemployed person's details shall be deleted from unemployment records if that person fails to perform his/her obligations to the National Employment Service, which is contrary to constitutional guarantees for the right to social protection (Article 61)⁸³ and standards enshrined in the International Covenant on Economic, Social and Cultural Rights and the right to social welfare. Within this initiative it was assessed that they are not in line with the Constitution and the Law on Social Protection which envisage that the right to monetary social benefit is intended only for those citizens who are listed in the unemployment records maintained by the National Employment Service. The aforementioned restriction of this right is a systemic barrier for effective social inclusion of Roma men and women at local level.

ANALYSIS OF COHERENCE

1) ABSENCE OF RESPECT OF RULE OF LAW PRINCIPLE: the violation of commitments undertaken by the line ministries is sending a message from national to local level that the rule of law is not the supreme

80 The Government of the Republic of Serbia, Decree on social inclusion measures for users of monetary social benefit, "The Official Gazette RS" No. 112/14, Article 4.

81 Ombudsman, Motion for assessment of constitutionality and legality of Article 2, para 2. item 4) and 5), Article 4, para 1. item 1) and Article 9, para 1. item 3) of the Decree on social inclusion measures for users of monetary social benefit, p. 4.

82 International Labour Organisation, Convention No. 29 on Forced Labour, Article 2.

83 The People's Parliament "How the Legislator exposed the beneficiaries of monetary social benefits to existential risk", <http://www.parlament.org.rs/baza-problema/ministarstva/novcana-socijalna-pomoc-ministarstvo-socijalne-politike/>, as of 18.12.2019.

principle that public administration and local governments must respect. For example, the Operational Conclusions of the Seminar on Social Inclusion of Roma Men and Women identified the obligation to establish a sub-group within the Working Group for drafting the National Employment Action Plan, in order to improve the existing and create new affirmative measures for the labour market intended for the Roma. However, the Ministry of Labour, Employment, Veteran and Social Affairs (MoLEVSA) refuses to implement this activity, with the justification that “within the employment policy there are efforts made to create and implement measures, and include the unemployed persons in the “targeted” measures which can produce the best results in terms of more specific presence in the labour market, irrespective of the national, religious or other origin”⁸⁴. In addition to that, the Operational Conclusions state employment of at least 100 persons, with special emphasis on institutions in which the Roma are underrepresented. There are no results achieved in this respect, because the competent ministries (MoLEVSA and MPALG) reported that, according to the Law on Changes and Amendments of the Law on Public Services, there was a delay in the Law on Employees in Public Services coming into effect (until 1 January 2020)⁸⁵. With respect to this issue, there is still a series of activities included in the Action Plan for exercise of rights of national minorities which have not been implemented⁸⁶: conducting the situation analysis in order to identify criteria for prescribing adequate representation of national minorities in certain parts of the public sector; adoption and implementation of the Decree which would, among other things, regulate the knowledge of language and script of languages of national minorities, as a special requirement for recruitment to certain posts; full implementation of the law regulating the register of employees in the public sector and public enterprises, by fulfilling the obligation to record in the register the language in which the employee completed his/her primary and secondary education, or the nationality in line with the Constitution of the RS and regulations on personal data protection, in order to ensure authentic data on representation of national minorities; and developing a four-year plan of employment of members of national

84 The Government of the Republic of Serbia, Report on implementation of Operational Conclusions of the Seminar “Social inclusion of Roma men and women in the Republic of Serbia for the period October 2017 – October 2019”, p. 36.

85 Ibid., p. 38.

86 The Government of the Republic of Serbia, Action Plan for achievement of rights of national minorities.

minorities. In some assessments, the fact that over the past three years Roma were not employed in public administration is an indicator of “institutional discrimination of members of ethnic minorities”⁸⁷. That is why the SCRA is proposing the need to develop the law on equal employment, according to which all members of ethnic minorities would be represented in public administration bodies proportionally to their share in the total population. In any case, this remains a key issue in the forthcoming period of implementation of the Strategy of Social Inclusion of Roma Men and Women, both at national and at local level, as also the EC recognises the affirmative measure for Roma employment in public services as a priority⁸⁸.

2) LIMITATIONS OF COMPETENCES OF LOCAL SELF-GOVERNMENTS:

The Law on Employment and Insurance in Case of Unemployment follows the logic of the Constitution and the Law on Local Self-Government and does not envisage source competences of local self-government in the area of employment policy. Adoption of local action plans by units of local self-government and their co-funding from the national budget is only a possibility, but not a legally binding obligation. For this reason, the local level is practically excluded from implementation of one of the five key areas of the Strategy of Social Inclusion of Roma Men and Women, which is a systemic barrier. In addition to that, as stated in an interview conducted in preparation for this analysis, city municipalities were recently excluded from the system of national co-financing of employment policies. All of the above makes pointless the activities envisaged by the Action Plan for Chapter 23, such as promoting the involvement of local authorities in reducing unemployment of the Roma population through implementation of local employment action plans and active promotion and implementation of policies and measures for increased Roma employment, with special emphasis on Roma women. The absence of source competences of local self-governments in the area of employment considerably reduces the achievements of the National Employment Strategy for the period 2011-2020, which states among its priorities the decentralisation of employment policy and decision-making related to employment in the

87 Report of the Standing Conference of Roma Associations (SKRUGa) – The Roma League on implementation of Operational Conclusions from the seminar “Social inclusion of Roma men and women in the Republic of Serbia” for the period October 2017 – October 2019, p. 5.

88 Communication from the Commission to the European Parliament and the Council: Report on the implementation of national Roma integration strategies – 2019.

local labour market. As the Strategy states, the focus in implementing employment policy at local level is on the units of local self-government which get a “new role and responsibility not only in implementing the national employment strategy, but also in local employment policy making which shall take into consideration all the specific features of the local context”⁸⁹. One of the key measures for increasing the activity of local self-governments is promoting the association among municipalities into joint local councils for employment and development of action plans for employment for the territory of several municipalities, particularly in case of smaller units of local self-government with weaker capacities. However, according to data from the Report on the Implementation of the National Employment Action Plan for 2018, the support from the national level for the implementation of local employment action plans produced very modest results: the involvement of 5,783 persons in active labour market measures, whilst the joint local employment councils were not established⁹⁰. Although the Strategy includes among its employment policy indicators the number of Roma covered by active labour market measures, according to the aforementioned report, in the course of 2018 such measures covered only 6,139 Roma, of which only 2,761 were women. When comparing these numbers with the assessment by the EC in its 2019 Serbia Report stating the unemployment rate of the Roma being 36% (and 45% for Roma women), it is evident that this is a clear failure of policies in this domain. This also illustrates the failure of the Strategy to design within local action plans specific programmes for employment of women. The Strategy for Social Inclusion of Roma Men and Women also states as a key problem in the area of employment the insufficient representation of the Roma population in employment policies. It is therefore not surprising that some assessments made in the interviews conducted in preparation for this analysis indicate that the area of employment is the major gap in public policies for social inclusion of Roma men and women. As was stated, at the level of local self-governments there are practically no competences for employment policies, “although the obligation for implementation is often presented as their obligation”. According to one proposal, it is necessary to introduce an adequate assessment of the

89 The Government of the Republic of Serbia, National Employment Strategy for the period 2011-2020, p. 33.

90 The Government of the Republic of Serbia, the Report on implementation of the National Employment Action Plan for 2018.

number of unemployed Roma men and women, because the numbers from the NES records are only the “tip of the iceberg”. Additionally, there is an alternative which is to establish a separate fund for Roma employment along with a separate department with this competence within the NES. Another identified unresolved issue is the centralised organisation of training for the labour market, which does not take into consideration the specific local needs in the territories of individual units of LSG and the additional issue of lack of coherence in the waste management sector in which 90% Roma are working in the “grey area” because moving this activity to formal frameworks is not financially viable.

Best practice examples in policy management

- Awarding grants within the IPA 2016 programme by SCTM in order to increase employment and employability of Roma men and women. This was the first call which enabled project proposals to be submitted in the Serbian language;
- The project by UNDP and UNHCR “Local initiatives for improved social inclusion of young Roma men and women” through which 33 units of LSG have engaged 45 Roma volunteers, of which nine were employed in the local self-government after volunteering.

1.5. Healthcare

*The Law on Healthcare*⁹¹ (Article 13) prescribes the competences of LSG only for primary healthcare and emergency medicine, and establishment of pharmacies (Article 79).

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) INCOMPLETE RIGHTS: The Law on Healthcare prescribes only the right to health protection (Article 2), but not the right of every person to the best physical and mental health possible, as is the case with Article 12 of the International Covenant on Economic, Social and Cultural

91 The Law on Health Care, “The Official Gazette RS” No. 25/2019.

Rights⁹². The European Pillar of Social Rights⁹³ also provides a broader definition of the right to health protection, and the right to timely access to affordable high-quality healthcare.

ANALYSIS OF COHERENCE

1) ABSENCE OF RESPECT OF RULE OF LAW PRINCIPLE: Although the Action Plan for Chapter 23 identifies the obligation of the Ministry of Health to implement the activity of introducing health mediators as support medical staff in the nomenclature of professions, that obligation has not yet been implemented. What is more, that obligation is reduced by the proposed reviewed Action Plan as “implementation of adopted sustainable model of institutionalisation of health mediators”⁹⁴. In addition, the proposal for the target of 90 engaged health mediators being reduced to 85 is a reason for concern, since the Strategy for Social Inclusion of Roma Men and Women identified as the key problem in healthcare the insufficient number of healthcare mediators. Also according to the report on implementation of Operational Conclusions from the Seminar „Social inclusion of Roma men and women in the Republic of Serbia for the period October 2017 - October 2019“, activities have not been implemented which refer to the following obligation: identifying financially sustainable solution for systematisation of health mediators including the adequate recruitment and salary, adequate job descriptions and an institution compatible with their role; the CB shall select the adequate model of institutionalising the health mediators until the first quarter of 2018 and shall state how it is implemented as of second quarter 2018. In this case, also, the failure to live up to the undertaken obligations by the relevant ministries and bodies, is sending a message from the national to the local level that rule of law is not the highest principle to which public administration bodies and bodies of local self-governments should adhere.

2) FINANCING NOT HARMONISED WITH DECENTRALISATION OF COMPETENCES: The Law on Healthcare consistently elaborates the

92 The Law Ratifying the International Covenant on Economic, Social and Cultural Rights, “The Official Gazette SFRY”, No. 7/1971-88.

93 The European Parliament, the Council of the European Union and the European Commission, European Pillar of Social Rights.

94 Ministry of Justice, the first draft of the reviewed AP CH 23 amended on the basis of comments by civil society organisations <https://www.mpravde.gov.rs/files/3-%203.%20Revised%20AP%2023%20Fundamental%20rights.docx>, as of 22.12.2019, p. 168.

competences of the local self-governments as identified in the Constitution and the Law on Local Self-Government. On the other hand, the Law on Financing of Local Self-Government does not envisage general transfers for local self-government for the tasks related to healthcare, which considerably limits the sustainability of local authorities in this domain. The Strategy of Public Health of the Republic of Serbia 2018-2026 states a direction towards local self-government as one of its principles and recognises the problem of availability of financial resources because it envisages among its activities the drafting of changes and amendments to the regulations on financing the public health programmes in territories of local self-governments until the end of 2018, so that units of local self-government be obliged to fund public health programmes in their territories⁹⁵. This activity, however, has not yet been implemented. On the other hand, a series of additional obligations of units of LSG has been identified, such as: publishing annual assessments of the health status of the population through the respective local health councils; improving access to healthcare services and accessibility of health protection for vulnerable groups in the territories of units of local self-government through defining special programmes in the field of public health performance for additional measures of health protection intended to priority vulnerable groups; establishing and achieving functionality of health councils in all units of local self-government until the end of 2019; determining proposals for public health plans at local level by health councils and the adoption of such plans by the end of 2019 in all LSG; developing local waste management plans by the end of 2019 (in this activity the key institution is the MEP, and the LSG are participants). The question is how realistic it is to expect from local self-governments to implement all of these activities within their competences, having in mind the system of financing as prescribed by the positive legislation, and the state of public finance, particularly at local level.

3) ABSENCE OF SYSTEM SUPPORT TO LOCAL MECHANISMS: As was stated in interviews conducted in preparation for this analysis, the key problem in the area of healthcare is the sustainability of the system of health mediators. According to the most recent research by the Ombudsman, it is assessed that the introduction of health mediators was

95 The Government of the Republic of Serbia, Strategy of Public Health for the Republic of Serbia 2018-2026.

the most successful policy measure since 2009, but that they are still engaged based on service agreements; in addition, their posts are not systematised, and the compensation for their work is below the minimum employment wage in the Republic of Serbia⁹⁶. The EC 2019 Serbia Report also repeats the recommendation that job descriptions of health mediators should be harmonised and institutionalised across Serbia. According to an opinion stated during an interview, there is an additional challenge in recent years that, due to the dominant focus of all actors on resolving the aforementioned issue, the increased abuse of narcotics in informal settlements has been neglected.

1.6. Social protection

*The Law on Social Protection*⁹⁷ (Article 14) prescribes the sole competence of LSG for the establishment of centres for social work, (CSW) and provision of daycare services in the community, services for independent living, accommodation in shelters, and other forms of assistance (soup kitchens). The Constitution also prescribes that earmarked transfers may be used to finance, among other things, services which under the law are funded by LSG, in those LSGs which are below the national average in terms of development (Article 207).

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) INCOMPLETE RIGHTS: as has already been stated in the chapter on local self-government, social protection, which under the Constitution and the Law on Local Self-Government is entrusted as source competence to local self-government, does not include the right to a standard of living, as prescribed by ratified international instruments. What is more, the draft law on changes and amendments of the Law on Social Protection, proposed solutions for the Decree of measures for social inclusion of beneficiaries of financial social benefits which are

96 The Ombudsman, Special report of the Ombudsman on implementation of the Strategy of social inclusion of Roma men and women, with recommendations, Belgrade 2019., p. 49.

97 The Law on Social Protection, "The Official Gazette RS" No. 24/2011.

subject to assessment of constitutionality in a procedure before the Constitutional Court, initiated by the motion of the Ombudsman. Namely, this draft envisages the termination of the right to financial social benefit if the person in the preceding six months refused to participate in public works⁹⁸. Similarly, the standards of the Convention on the Rights of the Child⁹⁹ related to the right of every child to use social protection and requiring the states parties to undertake all necessary measures for the full exercise of this right according to Article 24 are not fully covered by the positive legislation. In that respect, as stated in the Report on implementation of the Operational Conclusions of the Seminar “Social inclusion of Roma men and women in the Republic of Serbia for the period October 2017 – October 2019”, the draft has been developed of the law on changes and amendments of the Law on Social Protection, envisaging the services of family associates, as a form of intensive family support measure; that report also states that the MoLEVSA has drafted changes and amendments to the Family Law, which are expected to be adopted by the end of 2019, which will improve the position of children through the provision prohibiting severe physical disciplining of children in all settings and child marriages. However, these amendments under the two laws have not been adopted within the planned deadlines. In addition to that, there is reason for concern with respect to the response by Serbia to the recommendation of the UN that there is a need to ratify the Optional Protocol to the Convention on the Rights of the Child allowing the filing of individual complaints, which states that the Protocol has not been ratified “because it is necessary before ratification to make certain changes in the national legislation”¹⁰⁰.

2) RESTRICTIVE INTERPRETATION OF THE LAW: competent authorities frequently practice restrictive interpretation of regulations in the field of social protection. That is why social protection, in the opinion of some collocutors during the interviews conducted in preparation for this analysis, is one of the most problematic areas related to the social inclusion of Roma men and women. According to the most recent

98 Foundation Centre for Democracy, Analysis of the draft law on changes and amendments to the Law on Social Protection, p. 4.

99 The Law ratifying the UN Convention of the Rights of the Child, “The Official Gazette SFRY - International Agreements”, No. 15/90 and “The Official Gazette SRY - International Agreements”, No. 4/96 and 2/97.

100 The Office of Human and Minority Rights, Responses of the Republic of Serbia to the recommendations of UN states parties from the third cycle of the Universal Periodical Review, 2018., p. 40.

research by the Ombudsman, the Ministry of Labour, Employment, Veteran and Social Affairs provided a legal opinion according to which residents of collective centres do not have the right to monetary social benefits because “they are provided with housing and their basic existential needs are met”¹⁰¹. This unequivocally violates international standards on the right to an adequate standard of living. At the same time, according to the above research, as many as 83.62% surveyed respondents of the Roma community think that the amount of the monetary social benefit is not sufficient to meet basic existential needs¹⁰². This statement is confirmed by the assessment of bodies/committees in charge of monitoring international standards, for example, the European Committee of Social Rights of the Council of Europe on several occasions assessed that the amount of monetary social benefit in Serbia is “obviously inadequate”¹⁰³. In addition, the UN Committee for Economic, Social and Cultural Rights called upon Serbia to increase the amount of social benefits and prevent undue interruptions in receiving the benefits, “such as benefits for persons who are unable to work, which are recognised for nine months during a calendar year”¹⁰⁴. The EC 2019 Serbia Report assessed that the coverage and adequacy of financial benefits are inadequate to meet existential needs. The European Pillar for Social Rights also pointed to the right to a minimum income, implying that everyone who does not have sufficient funds should have the right to an adequate minimum income ensuring a dignified life and effective access to necessary goods and services. It is also a concern that, in the words of collocutors during interviews conducted in preparation for this analysis, the line ministry did not accept the proposal put forward at the Seminar held in October 2019 regarding the changes in the Law on Social Protection and the Law on Financial Support to Families with Children with respect to improving the adequacy of social benefits. These are measures envisaged by the draft Action Plan for implementation of the Strategy in 2019 and 2020. Additionally, as was stated in interviews conducted in preparation for this analysis, there is a problem of weak functioning of the system for recording residence address with the centre

101 The Ombudsman, Special report by the Ombudsman on implementation of the Strategy for social inclusion of Roma men and women with recommendations, Belgrade 2019., p. 61.

102 Ibid., p. 62.

103 European Committee of Social Rights, *Conclusions 2017 SERBIA*, p. 35.

104 Committee for Economic, Social and Cultural Rights, Final Observations on the second periodic review of Serbia, 2014., p. 8.

for social work, which is illustrated by the fact that currently there are only about 100 such reports. The challenge stated by the centres for social work, due to which they do not always accept the requests of all beneficiaries with this request, is the serving and transferring post for persons registered in this manner. An additional problem appears in practice because internally displaced persons, according to the Law on Health Insurance, cannot exercise the right to health protection due to the legal problems with registering residence addresses at the address of the centre for social work (only the possibility of registering residence at the address of the centre for social work is permitted)¹⁰⁵. Another example of restrictive interpretation of the law is the violation of the Convention on the Rights of the Child obliging states parties to ensure that no child is separated from its parents against their will, except when this is necessary and in the best interest of the child, based on decisions of competent authorities based on judicial consideration¹⁰⁶. However, non-governmental organisations have pointed to the order whereby the Minister for Labour, Employment, Veteran and Social Affairs obliged centres for social work to organise meetings with police directorates or police stations and urgently take away children from parents for whom it is determined that they “live and work in the streets”. This directive has been assessed by the NGOs as contrary to the standards of the Convention on the Rights of the Child and the proclaimed policy of the Government of the Republic of Serbia stating that the protection of primary family is a priority¹⁰⁷. As the UN Committee for the Rights of the Child stated “financial and material poverty, or conditions directly and exclusively linked with such poverty, must never be the only justification for separating the child from the care of the parents”; therefore, Serbia received recommendations to ensure adequate protection measures by the law, and clear criteria in order to determine the needs of accommodating the children in the system of alternative accommodation¹⁰⁸. Thus, instead of the repressive approach of the

105 The Ombudsman, Special report by the Ombudsman on implementation of the Strategy for social inclusion of Roma men and women with recommendations, Belgrade 2019., p. 52.

106 The Convention on the Rights of the Child, Article 9, 93. The Law Ratifying the UN Convention on the Rights of the Child. The Law Ratifying the UN Convention on the Rights of the Child, “The Official Gazette SFRY - International Agreements”, No. 15/90 i “The Official Gazette SRY - International Agreements”, No. 4/96 i 2/97.

107 The Network of Organisations for Children in Serbia, „Response related to the order to centres for social work”, <http://zadecu.org/reagovanje-povodom-naloga-centrima-za-socijalni-rad/>, as of 22.12.2019.

108 The Committee for the Rights of the Child, Concluding Observations on Combined Second and Third Periodical Report of the Republic of Serbia, 2017, p. 10.

Government illustrated by the above order of the minister, Serbia should, in line with the Committee recommendations, adopt or revise the law on protection of children into a law based on the rights of the child which explicitly regulates the position of children in a street situation¹⁰⁹.

ANALYSIS OF COHERENCE

1) UNREGULATED SYSTEM OF FINANCING RESULTING FROM INCOMPLETE DECENTRALISATION: The Law on Financing Local Self-Governments prescribes general transfers only for the area of children's protection (based on the number of children covered by direct children's protection) and does not cover the broader segment of social protection. General norms prescribe the possibility of earmarked transfers based on the decision of the competent authority, or special organisation. On the other hand, the Strategy for Social Protection Development states that municipalities have insufficient funds for development of social protection services within their competences, to which the "absence of control mechanisms and stimulations for exercise of rights which local self-governments are obliged to ensure" also contributed¹¹⁰. That is why it is stated that it is necessary to give back to "municipalities and towns the function of social protection of their citizens"¹¹¹. In addition, it is stated that due to the system of double competences by the municipalities and by the central level, the efficiency and the quality of centres for social work are reduced. As emphasised, community services are not sufficiently developed due to the high level of centralisation and insufficient funds in municipal budgets. The underlying cause is the lack of criteria on minimum level of appropriations from local budgets for social protection. That is why the Strategy for Social Protection Development proposed the following activities of a normative and strategic nature which are relevant to the social inclusion of Roma men and women at local level: that in the process of decentralisation, the local self-governments receive funds to meet the social needs of their citizens, whilst the national level retains the competences for the exercise of rights to permanent monetary benefits; according to this solution, the competences over centres for social work would be transferred fully to

109 The Committee for the Rights of the Child, General Comment No. 21 (2017) on children in street situation, p. 7.

110 The Government of the Republic of Serbia, Strategy of Social protection development, p. 6.

111 Ibid., p. 10.

local self-governments, which would ensure the funding for their operation by means of source and delegated revenues from the national level; moving the administrative procedure in exercising the right to all forms of financial transfers from centres of social work to the relevant municipal body; preparation and adoption of regulations defining the minimum rate of appropriations for social protection from budgets of local self-governments, and regulations on criteria for distribution of solidarity funds from the national and provincial budgets for underdeveloped municipalities; developing methodology for needs assessment of vulnerable groups, as the basis for adoption of strategic and action plans for services development at local level and establishment of local councils for social issues. The Action Plan for Chapter 23 also envisages relevant activities in this domain, such as ensuring sustainable financial support for community services for protection of Roma living/working in the streets. However, the EC 2019 Serbia Report states, like the reports for several preceding years, that there has been no progress made in terms of social protection services at local level and the process of decentralisation. Due to all of this, there is a questionable intention of the Government behind the draft Strategy of Social Protection (drafted with a delay of several years, after the expiry of the Strategy for Social Protection Development), because it states that it is expected that “additional funds provided through earmarked transfers since 2016 will manage to encourage and increase the development of social protection services within the mandates of local self-governments”¹¹² and that the implementation thereof does not require additional funds to be provided in the national budget, since when defining the measures, special care was taken of the “fiscal stability and limitations related to financial resources”¹¹³. On the other hand, the EC in its 2019 Serbia Report states that the system of earmarked transfers is still not implemented in a systematic and transparent manner and that lack of clarity in multiannual obligations stands in the way of ensuring continuity in services provision at local level. According to the available data, in 12 units of local self-government not a single social protection service is being delivered under the competences of local self-government¹¹⁴.

112 The Ministry of Labour, Employment, Veteran and Social Affairs, Draft: Strategy of Social Protection in the Republic of Serbia for the period 2019 to 2025 – INITIAL VERSION, p. 35.

113 Ibid., p. 67.

114 SIPRU, Mapping social protection service in the competences of units of local self-government in the Republic of Serbia, Belgrade 2016.

2) ABSENCE OF SYSTEM SUPPORT TO LOCAL MECHANISMS: The Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia identified as the key problem in the field of social protection the failure of LSG to provide additional forms of social protection for Roma families. As stated in the Report on Implementation of Operational Conclusions for the Seminar “Social Inclusion of Roma Men and Women in the Republic of Serbia for the period October 2017 – October 2019”, the MoLEVSA will strengthen the work of local self-governments to organise support and assistance to children on the streets, by encouraging the development of local social services funded from the budgets of local self-governments. Additionally, with respect to the activity envisaging that centres for social work will be obliged to intensify the coverage of Roma children in local social protection services and improve support programmes for mothers, the report states that few municipalities have the necessary financial resources to fund the provision of these services in adequate scope and in line with the needs of the population. That is why, it states, it is necessary to change the normative framework by amending the Law on Social Protection, in order to ensure the development of these services and their implementation in a greater number of municipalities, as well as to ensure the material and human resources necessary for adequate provision of such services. On the other hand, there has been no implementation of the activity included in the Action Plan for Chapter 23 related to identifying the model for more intense inclusion of Roma children in local social protection services. Another reason for concern is the fact, as stated in an interview conducted in preparation for this analysis, that the line ministry did not accept the proposal presented during the Seminar on Social Inclusion of Roma Men and Women held in October 2019 to implement a pilot project introducing mediators in the social protection system. On the other hand, the European Commission stated an example of best practice in Belgium related to the rights of municipalities which employ Roma as mediators in centres for social work¹¹⁵. Obviously, gaps in legal norms and the incompleteness of the legal framework in Serbia in the area of social protection in the direction of greater competences of local mechanisms is a systemic barrier for social inclusion of Roma men and women at local level.

115 Communication from the Commission to the European Parliament and the Council: Report on the Implementation of National Roma Integration Strategies – 2019.

Example of best practice: “Volunteering service of the City Municipality of Zvezdara”¹¹⁶

- The City Municipality of Zvezdara established a volunteering service of Zvezdara with the goal of strengthening capacities and the social role of the local self-government to provide assistance to citizens facing problems in their daily lives;
- This service provides monthly support for 250 beneficiaries, of which 60 beneficiaries receive it in their home setting. Roma are represented among volunteers and beneficiaries;
- This model was recently discussed at the event organised by SIPRU as a best practice example and a model for 14 municipalities which received training for implementing it.

1.7. Anti-discrimination

The Anti-Discrimination Law¹¹⁷ (Article 15) prescribes that everyone is entitled to equal access and equal protection of his/her rights before public administration bodies which, under the law, also include units of local self-government. The Law also prohibits discrimination in the provision of public services and access to public buildings (such as the seats of public administration authorities and facilities in the area of education, healthcare and social protection) and public spaces (Article 17). The Law prescribes the competences of the Commissioner for Equality, including the competence to establish and maintain cooperation with authorities in charge of achieving equality and protection of human rights in the territories of local self-governments.

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

116 City Municipality Zvezdara: Volunteering Service of Zvezdara, <http://zvezdara.rs/lokalna-samouprava/volonterski-servis-zvezdare/>.

117 The Anti-Discrimination Law, “The Official Gazette RS”, No. 22/2009.

1) INCOMPLETE RIGHTS: It is positive that the draft Law on Changes and Amendments to the Anti—Discrimination Law envisage harmonisation with international standards, primarily by regulating incitement to discrimination¹¹⁸, according to Article 7 of the Universal Declaration of Human Rights¹¹⁹ identifying the right to protection against discrimination, including incitement to discrimination, and Article 2 of the Convention on Elimination of All Forms of Racial Discrimination¹²⁰ calling upon the states parties not to incite racial discrimination by any person or organisation. On the other hand, this Convention requires state parties to incriminate any incitement of racial discrimination, which is prescribed by Article 87 of the Criminal Code (as incitement to discrimination), but not in the manner as done by the draft Law on Changes and Amendments to the Anti—Discrimination Law: “Discrimination shall be deemed to exist if a person or a group incite discrimination by giving orders to undertake discriminatory acts or inciting to discrimination in other similar ways”¹²¹. In order to ensure the principle of legal certainty, there is a need to harmonise the definition of incitement to discrimination contained in the Criminal Code with the definition contained in the aforementioned draft Law on Changes and Amendments to the Anti—Discrimination Law. In addition to that, the draft Law on Changes and Amendments to the Anti—Discrimination Law did not provide full harmonisation with the provisions of the Council Directive 2000/43/EC of 9 June 2000 regarding the application of the principle of equal treatment of persons irrespective of their racial or ethnic origin. Namely, this Directive prohibits discrimination in the public and private sector, among other things, with respect to conditions for access to self-employment and access to and use of assets and services available to the public, including housing¹²². On the other hand, self-employment and housing are not areas recognised by the positive national legislation, or proposals for amendments thereof, as the ones explicitly recognising the prohibition of discrimination. Additionally, the Directive prescribes the obligation of member states to undertake

118 Draft Law on Changes and Amendments to the Anti—Discrimination Law, <https://www.paragraf.rs/dnevne-vesti/050919/050919-vest13.html>, as of 23.12.2019.

119 The Universal Declaration of Human Rights, Article 7.

120 The Law Ratifying the International Convention on Elimination of All Forms of Racial Discrimination, “The Official Gazette SFRY”, No. 31/67.

121 *Ibid.*, Article 6.

122 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Article 3.

adequate measures to improve social dialogue in order to support equal access. This can include monitoring practice at the workplace, collective agreements, codes of conduct, surveys or exchange of experiences and best practice, as well as encouraging social partners to make agreements including anti-discrimination provisions in the areas covered by the Directive¹²³. These provisions have also not been transposed into national legislation. It is therefore a systemic barrier to effective implementation and anti-discriminatory regulations at local level which would contribute to the social inclusion of Roma men and women.

ANALYSIS OF COHERENCE

1) CENTRALISATION OF COMPETENCES: according to the Anti-Discrimination Law, units of local self-government practically have no competences in implementing anti-discrimination policies, except in the negative sense – not to perform discriminatory acts. Positive obligations, or active acts directed at preventing or eliminating discriminatory action, are not envisaged as its source competence. The Strategy on Prevention and Protection against Discrimination also set out the competences of local self-government in a very “soft” manner, through guidelines for anti-discrimination in units of local self-governments. This significantly limits the achievements of the Strategy of Social Inclusion of Roma Men and Women which states the suppression of discrimination of Roma men and women as being one of the key reasons for its adoption. This argument is further corroborated by the fact that the Strategy states in detail the forms of discrimination faced by the Roma population as follows: disproportionate and undue education of Roma children in special schools; lower quality of education for Roma children, segregation in education, and irregular attendance at pre-school preparatory programmes for many Roma children; placing resettled Roma men and women in so-called mobile housing units; discriminatory practices in the healthcare system (referring Roma men and women to private healthcare centres, discrimination based on the family name stated in the health insurance booklet, etc.); and discriminatory practices in the social protection system (inadequate communication, denial or provision of incomplete information, failure to act adequately or failure to act at all, etc.). Data from the most recent research by the Ombudsman are cause for concern, as they show that about 50% of respondents in substandard

123 *Ibid.*, Article 11.

settlements state that there is covert or overt segregation and discrimination against the Roma¹²⁴. Regretfully, it could be said that this is also a consequence of very centralised anti-discrimination policies which represent a systemic barrier for responsiveness of local self-governments with respect to social inclusion of Roma men and women. According to one opinion stated in the interviews conducted in preparation for this analysis, it is practically impossible to ensure anti-discrimination “in the field”, particularly in the area of work and employment, due to which members of the Roma community seldom decide to file legal action. This exposure to discrimination is exactly a barrier preventing members of the Roma population from making a shift to the formal labour market. According to that opinion, the work of the Roma in the parallel world of waste collection enables them to be treated as mutually equal, whilst in the same sector in the formal labour market, they would probably be exposed to discrimination. These data, on the other hand, are also corroborated by the findings of the Ombudsman, according to which the staff of the NES state that they do not have the mechanisms to respond in case of discriminatory actions by employers who do not wish to recruit the Roma¹²⁵. Furthermore, in some primary healthcare centres, there is a high level of prejudice and discriminatory attitudes by healthcare workers towards the Roma population¹²⁶. That is why in the forthcoming period, after the adoption of the rulebook regarding anti-discrimination in the sector of education, there will be an emphasis on other activities at the national level, such as adopting rulebooks on action in case of discrimination in the social protection system and developing guides for institutional protection against discrimination and manuals for identification of cases of discrimination against minority groups within the healthcare system. However, in the opinion of some interviewees, the key is to intensify work at local level, such as empowering the persons living in substandard settlements to recognise and report cases of discrimination. As assessed, in this respect it is key for the Commissioner of Equality to undertake strategic litigation, conduct mediation and establish communication among different actors. The EC also notes that in the coming period it should be a priority to make a commitment at the EU level on implementing community anti-

124 The Ombudsman, Special report by the Ombudsman on implementation of the Strategy for social inclusion of Roma men and women with recommendations, Belgrade 2019., p. 15.

125 *Ibid.*, p. 44.

126 *Ibid.*, p. 54.

discriminatory measures, particularly those aimed at employers and employees in the health sector, and it states as a best practice example the planning of anti-discriminatory measures at the level of local self-governments as is done in Finland¹²⁷. In addition to this, it should be noted that the UN Committee for the Elimination of Racial Discrimination, in its observations regarding the implementation of the International Convention on Eliminating all Forms of Racial Discrimination in Serbia, recommended that Serbia provide to members of vulnerable groups full and clear information in the language they understand and which refers to complaints mechanisms for acts of racial discrimination¹²⁸. Although the Commissioner for Equality is obliged to receive complaints also in the Romani language, in accordance with the Law on Official Use of Language and Script, and consequently the webpages of this institution provide formats for complaints of cases of discrimination in the Romani language, it would be useful to make additions to the Anti-Discrimination Law, so that the competence of the Commissioner on providing information to applicants and information of the public (including in languages of national minorities) is formulated in a more proactive and comprehensive manner. This is in line with the recommendations of the UN Committee for the Rights of the Child which calls upon Serbia to undertake campaigns at all levels in order to address negative attitudes to Roma in society and to undertake measures to prevent hate speech aimed at Roma¹²⁹.

1.8. Gender equality

The Law on the Equality of Sexes¹³⁰ (Article 2) prescribes that authorities of units of local self-government are obliged to monitor the achievement of equality based on sex in all areas of social life and application of international standards in this area. Additionally, the Law prescribes that

127 Communication from the Commission to the European Parliament and the Council: Report on the implementation of national Roma integration strategies – 2019.

128 The Committee for Elimination of Racial Discrimination, Concluding Observations on the combined second, third, fourth and the fifth periodical review of Serbia, 2017, p. 5.

129 The Committee for the Rights of the Child, Concluding Observations on the combined second and third periodical review of the Republic of Serbia, 2017, p. 17.

130 The Law on the Equality of Sexes, "The Official Gazette RS" No. 104/2009.

these authorities are obliged to: ensure, promote and improve the equality of the sexes within their competences; consider measures and activities contributing to the equality of the sexes when adopting development plans and other acts; establish a standing working body or appoint a person in charge of gender equality (Article 39).

ANALYSIS OF HARMONISATION WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

1) INCOMPLETE AND UNCLEARLY DEFINED RIGHTS: The Law on the Equality of Sexes does not regulate in a comprehensive manner the equal rights of women and men to enjoy all economic, social and cultural rights, as enshrined in Article 3 of the International Covenant on Economic, Social and Cultural Rights¹³¹. In addition, the legal provision on equal opportunities¹³² does not cover all the standards of the Convention on the Elimination of All Forms of Discrimination Against Women¹³³, such as those identified in Article 10 related to equal access to school premises and equipment of the same quality. Finally, the Constitution sets forth the concept of the “equality of the sexes”, as a constitutional concept which is then used also in the Law on the Equality of Sexes, while the Law on Local Self-Government prescribes competences of local self-government in the area of “gender equality”. On the other hand, the European Pillar of Social Rights contains the concept of gender equality, which implies equal treatment and opportunities for women and men in all areas. Incompleteness in the regulatory framework of the Republic of Serbia violates the principle of legal certainty and is a systemic barrier to social inclusion of Roma men and women at local level with respect to gender equality.

ANALYSIS OF COHERENCE

1) ABSENCE OF RESPECT OF RULE OF LAW PRINCIPLE: The fact that the Gender Equality Law was not adopted within the deadlines stated both in government plans and in the Action Plan for Chapter 23 (the deadline was the second quarter of 2016, while the revision of the plan proposed

131 The Law Ratifying the International Covenant on Economic, Social and Cultural Rights, „The Official Gazette SFRY”, No. 7/1971-88.

132 The Law on Equality of the Sexes, “The Official Gazette RS” No. 104/2009, Article 30.

133 The Law Ratifying the Convention on the Elimination of All Forms of Discrimination against Women, “The Official Gazette SFRY – International Agreements”, No. 11/81.

its adoption in the fourth quarter of 2020), is a violation of the principle of rule of law sending a very poor message to local self-governments that they themselves are not obliged to respect their obligations in this area. In addition, other normative activities relevant to the area of gender equality in the context of social inclusion of Roma men and women in the course of EU accession were not completed either. For example, according to the report on implementation of Operational Conclusions from the seminar “Social Inclusion of Roma Men and Women in the Republic of Serbia for the period October 2017 – October 2019”, the Ministry of Labour, Employment, Veteran and Social Affairs was to develop the rulebook introducing the service of intensive family support, covering also measures to suppress violence against women and child marriage (the deadline for this activity was the second quarter of 2018), and by the end of 2019 changes and amendments to the Family Law were planned to be adopted in order to exclude the possibility of juvenile marriages from being concluded.

2) SYSTEMIC LACK OF COORDINATION AT THE NATIONAL LEVEL: Unresolved issues of coordination between the Coordination Body for Gender Equality and the Ministry of Labour, Employment, Veteran and Social Affairs significantly hampers reform processes in this area both at the national and at local level. The Coordination Body is practically not functional because it is not convening sessions, while its webpages have no content¹³⁴. According to the assessment by the Chair of the Coordination Body, Zorana Mihajlović, this Body with the new law should be significantly strengthened¹³⁵. Furthermore, in the assessment by the EC in its Serbia Report, “the division of responsibility between the sector for anti-discrimination policy and enhancement of gender equality within the Ministry of Labour, Employment, Veteran and Social Affairs and the Coordination Body for Gender Equality still needs to be clarified and effective institutional structure needs to be established with adequate resources”¹³⁶.

134 Coordination Body for Gender Equality, “Gender equality at local level”, <https://www.rodnaravnopravnost.gov.rs/sr/rodna-ravnopravnost/rodna-ravnopravnost-na-lokalu>, as of 23.12.2019.

135 “I am expecting a stronger Coordination Body for Gender Equality”, <https://www.rodnaravnopravnost.gov.rs/sr/press/vesti/ocekujem-jos-jace-koordinaciono-telo-za-rodnu-ravnopravnost>, as of 23.12.2019. On the same occasion, Ms Mihajlović stated that Nova Varoš is “a rare municipality that has made progress in gender equality”.

136 European Commission, 2019 *Serbia Report*, p. 39.

3) FINANCING NOT HARMONISED WITH DECENTRALISATION OF COMPETENCES: Despite the fact that the Law on Local Self-Government prescribes the competences of LSG together with national level authorities, for the area of gender equality, the Law on Financing Local Self-Governments does not prescribe the possibility of general transfers for the area of gender equality, but only the possibility for earmarked transfers in a narrower sense, based on a decision by the competent ministry or special organisation. However, such a possibility has not been used so far by the Ministry of Labour, Employment, Veteran and Social Affairs. The draft Action plan for implementation of the National Gender Equality Strategy for the period 2019 – 2020 also raised the question of financing activities at local level. The consultations on this document also specifically pointed to the fact that in many LSG, women's organisations were left out of financing from local budgets¹³⁷.

4) DECENTRALISATION NOT IMPLEMENTED EFFECTIVELY: The National Gender Equality Strategy for the period 2016 – 2020 recognised the challenges for enhancement of gender equality at the level of local self-government, such as the "absence of clear guidelines for the work of local gender equality mechanisms"¹³⁸. The draft Action plan for implementation of the National Gender Equality Strategy for the period 2019 - 2020 (which has not been adopted yet) assessed that the implementation of the previous action plan did not produce satisfactory results at local level¹³⁹. Although by the end of 2018 a total of 109 local mechanisms for gender equality had been established, it was nevertheless stated that, with the exception of the national mechanism, other gender equality mechanisms were not effective enough. In this respect the UN Committee for Elimination of Discrimination against Women submitted to Serbia a series of recommendations directed at the following: finalising the establishment of gender equality mechanisms at local level; equipping them with all resources, including human, financial and technical; and ensuring the necessary coordination between the

137 The Government of the Republic of Serbia, draft Action plan for implementation of the National Gender Equality Strategy for the period 2019 – 2020, p. 11.

138 The Government of the Republic of Serbia, National Gender Equality Strategy for the period 2016 - 2020, p. 30.

139 The Government of the Republic of Serbia, draft Action plan for implementation of the National Gender Equality Strategy for the period 2019 – 2020, p. 5.

national and local level¹⁴⁰. That is why it is worrying that the draft Action Plan expressed great expectations from the adoption of the Gender Equality Law (which has been blocked for some years at national level), and it stipulates that it should regulate the status of gender equality bodies at local level. On the other hand, the draft Action plan envisages a new obligation of units of local self-government, specifically to regulate in their respective statutes the status of gender equality mechanisms at local level. All of this illustrates ineffective decentralisation of competences in the area of gender equality and the existence of systemic barriers, reflected in the absence of political will to substantively improve gender equality in Serbia. Finally, there is a systemic weakness that the Strategy for Social Inclusion of Roma Men and Women does not include special measures and activities to enhance gender equality. That is why the UN Committee called upon Serbia to “design, adopt and implement fully gender sensitive measures” in order to create more opportunities for women, including Roma women¹⁴¹.

140 The Committee for the Elimination of Discrimination against Women, Concluding Observations with regard to the Fourth periodical report of the Republic of Serbia, 2019., p. 5.

141 *Ibid.*, p. 11.

2. SITUATION ANALYSIS AT LOCAL LEVEL

2.1. Belgrade (Zvezdara)

On the basis of data for 2018 from the **Database for monitoring Roma inclusion measures**¹⁴², the territory of the Municipality of Zvezdara had a total of 1,644 persons of Roma nationality, which is about 1% of the total population. The local councils are not established for interethnic relations and healthcare, but there is a gender equality commission established including members of the Roma nationality. A Roma coordinator has been appointed, but this post is not systematised. In the territory of the municipality, there are two health mediators and four pedagogical assistants.

According to the data of the **Index of Social Development**¹⁴³, in the territory of the Municipality of Zvezdara 94.18% of children attended the preparatory pre-school programme in 2016, which is 9.41% higher than in 2011, whilst the primary school was attended by 87.67% of children (according to the data of the Association of Coordinators for Roma Issues (ARC) collected in the preparatory stage of the ROMACTED Programme, in 2018, 423 out of a total of 470 Roma children aged 6-15 years were attending school¹⁴⁴).

With respect to the labour market, the unemployment rate increased from 18.25% to 21.19% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 22% of Roma have a job).

With respect to healthcare, the number of doctors per thousand of the population was 3.5 in 2016, while the rate of DTP vaccination was 82.4%.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 1.5%, which is significantly lower than the national average of 3.6%.

142 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

143 SIPRU, *Index of social development of towns and municipalities*, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

144 Association of Coordinators for Roma Issues, *Guidelines for local action plans*, (p. ?), Valjevo 2018.

At the same time, in the period 2011-2016 expenditure for social protection per capita decreased from RSD 8,026 to RSD 2,711.

According to the data of **ARC**, collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 75% of Roma households were not able to pay bills for utility services.

According to data from the **Poverty Map of Serbia**, the rate of relative poverty in the Municipality of Zvezdara was 8.3%, compared to 24.5% in the Republic of Serbia¹⁴⁵.

With respect to tasks related to social inclusion of Roma men and women, **the Statute of the City Municipality of Zvezdara**¹⁴⁶, in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Providing opinions on spatial and urban development plans adopted by the City;
- Conducting eviction procedures of persons illegally occupying flats and common premises in residential buildings;
- Monitoring the situation and taking care of maintenance of kindergartens and primary schools;
- Monitoring enrolment in the first grade of primary school and regular school attendance;
- Identifying measures and activities for child protection and safety;
- Assisting the development of different forms of self-help and solidarity with persons with special needs and persons essentially in an unequal position with other citizens and ensuring the exercise of human rights, individual and collective rights of members of national minorities and ethnic groups.

The Statute does not determine competences with respect to housing support, employment, and healthcare. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

145 The National Statistical Office, *Poverty Map of Serbia*, Belgrade 2016.

146 Assembly of the City Municipality Zvezdara, Statute of the City Municipality Zvezdara, I No. 020 – 42 – 13.11.2008, Article 14.

The **Strategic Plan of Development of the City Municipality Zvezdara 2015-2020**¹⁴⁷ includes relevant objectives for social inclusion of Roma men and women:

- Poverty reduction;
- Improving the quality of life of citizens;
- Improving social policy. The establishment of the Office for Roma Issues is envisaged.

It includes activities in the area of education, as regulated by national regulations, but it does not include measures of housing support. It also includes activities in the area of employment, healthcare and social protection. It does not include gender equality as a cross-cutting issue (for example, gender-sensitive indicators and gender-sensitive language), but it does include a number of activities targeting women. It does not envisage activities directly targeting discrimination.

The **Action Plan for Improving the Position of Roma in the territory of the Municipality of Zvezdara for the period 2015-2020**¹⁴⁸ was developed in a participatory manner, through interactive workshops and focus groups with representatives of all informal settlements. The Action Plan makes reference to international human rights standards, as well as the national legal and strategic framework. It covers five thematic areas as envisaged by the national strategy, along with cross-cutting issues of gender equality and anti-discrimination. The Action Plan states the budget for implementation of activities, in the amount of RSD 2,000,000 for 2015. The Action Plan determines also the annual reporting cycle on implementation.

According to publicly available data¹⁴⁹, the Municipality of Zvezdara does not have adopted local action plans in the areas of education, housing and healthcare, but it does have an action plan for employment for 2017 (recognising increased access to the labour market for Roma as one of its objectives) and the Strategy of Social Protection Development

147 City Municipality Zvezdara, Strategic Plan of Development of City Municipality Zvezdara 2015-2020, 2015.

148 City Municipality Zvezdara, Action Plan for Improving the Position of Roma in the Municipality of Zvezdara for the period 2015-2020, XI No. 06 – 60 – 30.12.2014.

149 City Municipality Zvezdara, <https://zvezdara.rs/lokalna-samouprava/strategija-razvoja/>, as of 24.12.2019.

for the period 2011-2015 (which recognises Roma men and women as target groups). There are no separate local strategic documents related to anti-discrimination and gender equality.

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related to the following areas:

- 1) Education (providing additional classes for children in primary schools, scholarships for secondary school pupils and additional qualification and change of qualification);
- 2) Improving housing conditions through infrastructure works (resolving the water supply's network problems and sewerage and installing street lighting);
- 3) Employment (organising training for entrepreneurship for young Roma men and women).

2.2. Kragujevac

Based on the data for 2018 from the Database for monitoring the measures for Roma inclusion¹⁵⁰, according to official data for the territory of the City of Kragujevac, the number of persons of Roma nationality was 1,482 representing about 0.83% of the total population. The local council for interethnic relations has not been established, but the council for healthcare and commission for gender equality have been set up and have with members of Roma nationality. The Coordinator for Roma issues is engaged and this post systematised. In the territory of the town, one health mediator and five teaching assistants have been engaged.

According to the data from the Index of Social Development¹⁵¹, in the territory of the City of Kragujevac in 2016, 94.04% of children attended the pre-school preparatory programme, while primary school was attended by 98.58% of children (according to data of the ARC collected during the preparatory stage of the ROMACTED Programme, in 2018, 450

150 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

151 SIPRU, *Index of social development of towns and municipalities*, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

out of a total of 600 Roma children aged 5-15 years were attending school).

With respect to the labour market, the unemployment rate reduced from 34.81% to 31.17% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 33% of Roma have a job).

With respect to healthcare, the number of doctors per thousand of the population was 4.55 in 2016, while the rate of DTP vaccination was 100%.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 3.2%, which is lower than the national average of 3.6%. At the same time, in the period 2011-2016 expenditure for social protection per capita decreased from RSD 6,267 to RSD 4,265.

According to data of the **ARC** collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 80% of Roma households were not able to pay bills for utility services.

According to data from the **Poverty Map of Serbia**, the rate of relative poverty in the town of Kragujevac was 23.8%, compared to 24.5% in the Republic of Serbia¹⁵².

With respect to tasks related to social inclusion of Roma men and women, **the Statute of the City of Kragujevac**¹⁵³, in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Adoption of spatial and urban development plans;
- Taking care of meeting the needs of citizens in the areas of education, healthcare and social protection;
- Ensuring the protection of rights of vulnerable groups;
- Taking care of the exercise, protection and enhancement of human and minority rights and gender equality.

152 The National Statistical Office, *Poverty Map of Serbia*, Belgrade 2016.

153 Assembly of the City Municipality Zvezdara, Statute of the City Municipality Zvezdara, I No. 020 – 42 – 13.11.2008, Article 14.

The Statute does not determine competences with respect to housing support and employment. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

The **Strategic Plan of Development of the City of Kragujevac 2013-2018**¹⁵⁴ includes relevant priorities for social inclusion of Roma men and women:

- Improving infrastructure;
- Improving the system of healthcare and social protection;
- Improving the system of education.

It includes activities in the area of education, as regulated by national regulations, but it does not include measures of housing support. It also includes activities in the areas of employment, healthcare and social protection. It does not include gender equality as a cross-cutting issue (for example, gender-sensitive indicators and gender-sensitive language), but it does include a number of activities targeting women. It does not envisage activities directly targeting discrimination.

The City of Kragujevac does not have a valid Action Plan for social inclusion of Roma men and women. The previous document, the Local Action Plan for the enhancement of the position of Roma in the City of Kragujevac¹⁵⁵ was in effect for the period 2015-2018. According to the LAP, the budget for its implementation was RSD 15,700,000. It covered the following areas: education, employment, social protection, healthcare, readmission and housing. As stated in the document, the LAP was the result of joint work of the local self-governments and Roma NGOs.

According to publicly available data¹⁵⁶, the City of Kragujevac does not have adopted local action plans in the areas of education and housing, while it does have an adopted action plan for employment for 2014, the Strategy for Development of Primary Healthcare of the City of Kragujevac for the period 2011-2014 (recognising Roma as a vulnerable

154 The City of Kragujevac, Strategy of Sustainable Development of the City of Kragujevac 2013-2018, 2013.

155 Local Action Plan for improving the position of Roma in the City of Kragujevac for the period 2015 - 2018, „Official Gazette of the City of Kragujevac“ No. 44/2015.

156 The City of Kragujevac, <http://projekti.kragujevac.rs/strategije-akcioni-planovi/>, as of 24.12.2019.

population) and the Strategy of Development of Social Protection 2010-2013 (which does not recognise Roma men and women as a separate target group). There are no separate local strategic documents related to anti-discrimination and gender equality.

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related to the following areas:

- 1) Education (providing scholarships for secondary school and higher education students, providing textbooks for pupils of secondary schools, increasing the level of education and increasing the number of Roma who have completed primary education);
- 2) Improving housing conditions (development of detailed regulation plans, construction of the road and bridge, providing electricity consumption meters and providing resources for reconstruction of homes, building of bathrooms and construction of new homes);
- 3) Healthcare (increasing the number of educational workshops for the young people).

2.3. Niš

According to the data from the Index of Social Development¹⁵⁷, in the territory of the City of Niš in 2016, 98.6% of children attended the pre-school preparatory programme, whilst primary school was attended by 98.27% of children (according to data from ARC collected in the preparatory stage of the ROMACTED Programme, in 2018, 1,114 out of a total of 2,072 Roma children aged 6-15 years were attending school).

With respect to the labour market, the unemployment rate decreased from 33.5% to 28.91% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 13.4% of Roma have a job).

¹⁵⁷ SIPRU, Index of social development of towns and municipalities, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

With respect to healthcare, the number of doctors per thousand of the population was reduced from 5.59 in 2011 to 4.9 in 2016.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 6.4%, which was higher than the national average at 3.6%. At the same time, in the period 2011-2016, the expenditure for social protection per capita decreased from RSD 4,472 to RSD 1,848.

According to the data of **ARC**, collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 80% of Roma households were not able to pay bills for utility services.

According to data from the **Poverty Map of Serbia**, the lowest rate of relative poverty in the territory of the City of Niš was recorded in the Municipality of Medijana – 13.4%, while the highest rate was in the Municipality of Crveni Krst – 37.3%¹⁵⁸.

According to the data of **ARC**, collected in the preparatory stage of the ROMACTED Programme, according to official data for the territory of the town of Niš there were 6,996 persons of Roma nationality, or 2.62% of the total population¹⁵⁹.

With respect to tasks related to social inclusion of Roma men and women, **the Statute of the City of Niš**¹⁶⁰, in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Adoption of the spatial plan of the City and urban development plans;
- Establishing institutions and organisations in the areas of primary education and primary healthcare;
- Establishing institution in the area of social protection;

158 The National Statistical Office, *Poverty Map of Serbia*, Belgrade 2016.

159 Since in the course of development of this analysis the database for monitoring the social inclusion of Roma became inaccessible, it was not possible in this manner to verify data on the existence of local council for interethnic relations, council for health care or the commission for gender equality, as well as the engagement of Roma coordinators, health mediators and pedagogical assistants.

160 The Assembly of the City of Niš, the Statute of the City of Niš, No. 06-357/2008-3-02, 01.10.2008. Article 21.

- Creating conditions for improvement, achievement and protection of human rights;
- Assisting the development of different forms of self-help and solidarity with persons with disabilities;
- Ensuring the achievement and protection and improvement of equality between women and men.

The Statute does not determine competences with respect to housing support and employment. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

The **Strategic Plan of Development of the City of Niš for 2020**¹⁶¹ includes relevant objectives for social inclusion of Roma men and women:

- Infrastructure;
- Housing construction;
- Employment;
- Social development.

It includes activities in the areas of education, housing, employment, healthcare and social protection. The document also contains gender equality as a cross-cutting issue (improving the share of women in decision-making processes and integrating gender equality in the existing thematic priorities). However, the Strategy does not include activities targeting directly anti-discrimination.

The City of Niš does not have a valid Action Plan for social inclusion of Roma men and women. The previous document was the Local Action Plan for improvement of the position of Roma in the territory of the city of Niš for the period 2017-2019¹⁶². The LAP stated that for each year of its implementation it is necessary to appropriate RSD 5,000,000. It covered the following areas: education, employment, healthcare, housing, and utility infrastructure, social protection, culture, media and information. As the document states, in the course of its implementation use was made

161 The Assembly of the City of Niš, the Programme of City Development for 2020, 2019.

162 The Assembly of the City of Niš, Local action plan for improving the position of Roma in the territory of the City of Niš for the period 2017 - 2019.

of data received from meetings and consultations with representatives of Roma population.

According to publicly available data, the City of Niš does not have adopted local action plans in the areas of housing, education, employment and healthcare, but it does have an adopted plan in the area of social protection¹⁶³. There are no separate local strategic documents related to anti-discrimination, but the City had a local action plan for gender equality and implementation of the UN Resolution 1325 “Women, Peace and Security” at local level for the period 2016-2017¹⁶⁴. (which recognised Roma women as a separate target group).

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related to the following areas:

- 1) Education (increasing motivation for education among the youth and parents for children to continue their education);
- 2) Implementing the programme “Second Chance” for adults to continue secondary education);
- 3) Improving housing conditions (providing construction packages, sewerage cleaning, water supply network reconstruction, etc.);
- 4) Employment (increasing motivation of young people for employment).

2.4. Odžaci

On the basis of data for 2018 from the **Database for monitoring Roma inclusion measures**¹⁶⁵, the territory of the Municipality of Odžaci had a total of 1,135 persons of Roma nationality, which is about 3.8% of the total population. The local council for interethnic relations is not established, nor is there the commission for gender equality, but there is a healthcare council with members of the Roma community. The Coordinator for Roma issues is engaged and this post systematised. In

163 The City of Niš, <http://www.gu.ni.rs/strateska-dokumenta/>, as of 20.1.2020.

164 Ibid.

165 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

the territory of the municipality there are no health mediators, but there are three pedagogical assistants.

According to the data from the Index of Social Development¹⁶⁶, in the territory of the Municipality of Odžaci in 2016 a total of 101.63% of children attended the pre-school preparatory programme, while primary school was attended by 98.17% of children (according to the data of the Association of Coordinators for Roma Issues (ARC) collected in the preparatory stage of the ROMACTED Programme, in 2018 all 269 Roma children aged 6-15 years were attending school.

With respect to the labour market, the unemployment rate decreased from 47.83% to 35.89% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 7.7% of Roma have a job).

With respect to healthcare, the number of doctors per thousand of the population was reduced from 1.52 in 2011 to 1.2 in 2016.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 4%, which is higher than the national average at 3.6%. At the same time, in the period 2011-2016 expenditure for social protection per capita decreased from RSD 2,340 to RSD 743.

According to the data of **ARC**, collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 70% of Roma households were not able to pay bills for utility services. According to data from the **Poverty Map of Serbia**, the rate of relative poverty in the Municipality of Odžaci was 37.1%, compared to 24.5% in the Republic of Serbia¹⁶⁷.

With respect to tasks related to social inclusion of Roma men and women, **the Statute of the Municipality of Odžaci**¹⁶⁸, in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

166 SIPRU, Index of social development of towns and municipalities, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

167 The National Statistical Office, *Poverty Map in Serbia*, Belgrade 2016.

168 Municipal Assembly Municipal Assembly Odžaci, *The Statute of the Municipality of Odžaci*, No. 011-5/2019-II, 14.02.2019, Article 15.

- Ensuring the meeting of needs of citizens in the areas of education, healthcare and social protection, child protection;
- Protection of rights of vulnerable groups,
- Achievement, protection and enhancement of human and minority rights and gender equality.

The Statute does not determine competences with respect to housing support and employment. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

The **Strategic Plan of Development of the Municipality of Odžaci 2015-2020**¹⁶⁹ includes relevant objectives for social inclusion of Roma men and women: developed social infrastructure in order to improve the quality of life of the population and increase social inclusion. This covers the areas of education, employment, and healthcare, but it does not include measures of housing support and activities in the area of social protection. It does not include gender equality as a cross-cutting issue (for example, gender-sensitive indicators and gender-sensitive language), nor activities targeting women. It does not envisage activities directly targeting discrimination.

The **Local Action Plan for improvement of education, employment, healthcare and housing of Roma men and women in the Municipality of Odžaci for the period September 2016 – December 2020**¹⁷⁰ makes reference to the national strategic framework. The LAP covers all thematic areas as envisaged by the national strategy, except social protection. The LAP also covers the cross-cutting issues of gender equality and anti-discrimination. Additionally, the LAP states the necessary budget for implementation of activities in the amount of RSD 92,500,000 for the whole implementation period. The action plan also sets the annual reporting cycle.

169 Municipality of Odžaci, Strategy of local sustainable development of the Municipality of Odžaci 2015-2020, 2015.

170 Municipality of Odžaci, Local Action Plan for improvement of education, employment, healthcare and housing of Roma men and women in the Municipality of Odžaci for the period September 2016 – December 2020, 2016.

According to publicly available data¹⁷¹, the Municipality of Odžaci does not have adopted local action plans in the areas of education, housing, healthcare and social protection, while has adopted an action plan for employment for 2019 (recognising Roma as a separate target group). There are no separate local strategic documents related to anti-discrimination and gender equality.

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related to the area of social protection (ensuring space for the elderly, opening a youth club, awareness raising on consequences of early marriage, etc.).

2.5. Požarevac (Kostolac)

On the basis of data for 2018 from the **Database for monitoring Roma inclusion measures**¹⁷², the territory of the City Municipality of Kostolac had a total of 2,659 persons of Roma nationality, which is about 20% of the total population. The local council is not established for interethnic relations and there is no commission for gender equality, but there is a council for healthcare, with no members of Roma nationality. The Coordinator for Roma issues is engaged, but this post is not systematised. In the territory of the municipality there is an engaged healthcare mediator and one pedagogical assistant.

According to the data from the Index of Social Development¹⁷³, in the territory of the City Municipality of Kostolac in 2016 a total of 96.86% of children attended the pre-school preparatory programme, while primary school was attended by 84.7% of children (according to the data of the Association of Coordinators for Roma Issues (ARC) collected in the preparatory stage of the ROMACTED Programme, in 2018, 480 out of 600 Roma children in total aged 6-15 years were attending school).

171 Municipality of Odžaci, <https://www.odzaci.rs/dokumenta/lokalni-akcioni-planovi>, as of 24.12.2019.

172 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

173 SIPRU, *Index of social development of towns and municipalities*, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

With respect to the labour market, the unemployment rate increased from 11.98% to 14.12% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 22% of Roma have a job).

With respect to healthcare, the number of doctors per thousand of the population decreased from 3.76 in 2011 to 3.5 in 2016.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 1%, which is significantly lower than the national average of 3.6%. At the same time, in the period 2011-2016, expenditure for social protection per capita decreased from RSD 3,774 to RSD 832.

According to the data of **ARC**, collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 35% of Roma households were not able to pay bills for utility services.

According to data from the **Poverty Map of Serbia**¹⁷⁴, the rate of relative poverty in the City Municipality of Kostolac was 27.6%, relative to 24.5% for the Republic of Serbia.

With respect to tasks related to social inclusion of Roma men and women, **the Statute of the City Municipality of Kostolac**¹⁷⁵, in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Providing opinions related to urban development plans for its territory;
- Assisting the development of different forms of self-help and solidarity with persons with special needs and persons essentially in an unequal position with other citizens;
- Ensuring the exercise, protection and enhancement of human rights.

174 The National Statistical Office, *Poverty Map in Serbia*, Belgrade 2016.

175 The Council of the City Municipality Kostolac, the Statute of the City Municipality Kostolac, No. 5-1/10, 03.02.2010, Article 14.

The Statute does not determine competences with respect to education, housing support, employment and healthcare. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

The **Strategy of Sustainable Development of the City of Požarevac 2009-2013**¹⁷⁶ includes relevant priority areas for social inclusion of Roma men and women:

- Infrastructure development;
- Quality social protection and healthcare;
- Better quality education.

It includes activities in the area of education, as regulated by national regulations, but it does not include measures of housing support. While the Strategy includes activities in the areas of employment, healthcare and social protection, it does not include gender equality as a cross-cutting issue (for example, gender-sensitive indicators and gender-sensitive language), but it does include a number of activities targeting women. It does not envisage activities directly targeting discrimination.

Social inclusion of Roma men and women in the City Municipality of Kostolac is regulated by the Action Plan for improving the position of Roma in the territory of the City of Požarevac for the period 2016-2020¹⁷⁷ which was developed in a participatory manner, through interactive workshops and focus groups with representatives of citizens' associations. The Action Plan makes reference to international human rights standards, as well as national legal and strategic framework. It covers five thematic areas as envisaged by the national strategy, along with cross-cutting issues of gender equality and anti-discrimination. The Action Plan states the budget for implementation of activities, in the amount of RSD 3,000,000 for the year 2016. The Action Plan determines also the annual reporting cycle on implementation.

According to publicly available data¹⁷⁸, the Municipality of Kostolac does not have adopted local action plans in the areas of education,

176 The City of Požarevac, Strategy of sustainable development of the city of Požarevac 2009-2013, 2009.

177 The City of Požarevac, Action plan for improvement of the position of Roma in the territory of the city of Požarevac for the period 2016-2020, 2016.

178 City Municipality Kostolac, <http://kostolac.rs/strateski-dokumenti.html>, as of 24.12.2019.

housing, employment, healthcare and social protection. There are no separate local strategic documents related to anti-discrimination and gender equality.

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related to the following areas:

- 1) education (providing textbooks for pupils of primary and secondary schools);
- 2) improving housing conditions through infrastructure works (clearing up landfill, arranging infrastructure in settlements and constructing the water supply network).

2.6. Prokuplje

On the basis of data for 2018 from the **Database for monitoring Roma inclusion measures**¹⁷⁹, according to official data, the territory of the town of Prokuplje had a total of 2,154 persons of Roma nationality, which is about 4.8% of the total population. The local councils are not established for interethnic relations and healthcare, but there is a council for healthcare (with no members of Roma nationality) and a commission for gender equality with members of Roma nationality. The Coordinator for Roma Issues is engaged and this post systematised. In the territory of the city, there is one engaged health mediator and four pedagogical assistants.

According to the data from the Index of Social Development¹⁸⁰, in the territory of the city of Prokuplje in 2016 a total of 91.71% of children attended the pre-school preparatory programme, whilst primary school was attended by 99.01% of children (according to the data of the Association of Coordinators for Roma Issues (ARC) collected in the preparatory stage of the ROMACTED Programme, in 2018, 368 out of a total of 410 Roma children aged 6-15 years were attending school).

179 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

180 SIPRU, *Index of social development of towns and municipalities*, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

With respect to the labour market, the unemployment rate increased from 45.17% to 39.27% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 13% of Roma have a job).

With respect to healthcare, the number of doctors per thousand of the population increased from 3.86 in 2011 to 3.9 in 2016, and the rate of DTP vaccination was 100%.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 6.2%, which is higher than the national average at 3.6%. At the same time, in the period 2011-2016 the expenditure for social protection per capita decreased from RSD 3,811 to RSD 2,253.

According to the data of **ARC, collected in the preparatory stage of the ROMACTED Programme**, in 2018 as many as 60% of Roma households were not able to pay bills for utility services.

According to data from the **Poverty Map of Serbia**, the rate of relative poverty in the territory of the city of Prokuplje was 36.8%, compared to 24.5% in the Republic of Serbia¹⁸¹.

With respect to tasks related to social inclusion of Roma men and women, **the Statute of the city of Prokuplje**¹⁸², in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Ensuring that the needs of citizens are met in the areas of education, healthcare and social protection, and children's protection;
- Protection of rights of vulnerable groups;
- Ensuring the exercise, protection and enhancement of human and minority rights and gender equality.

181 The National Statistical Office, *Poverty Map in Serbia*, Belgrade 2016.

182 Municipal Assembly Prokuplje, Statute of the City of Prokuplje, No. 06-71/2018-02, 22.11.2018, Article 15.

The Statute does not determine competences with respect to housing support and employment. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

The **Strategy of Sustainable Development of the Municipality of Prokuplje 2007-2017**¹⁸³ includes relevant objectives for the social inclusion of Roma men and women:

- employment;
- social development;
- enhancement of living conditions of the population and poverty reduction.

It includes activities in the area of education, as regulated by national regulations, but it does not include measures of housing support. It also includes activities in the areas of employment, healthcare and social protection. It does not include gender equality as a cross-cutting issue (for example, gender-sensitive indicators and gender-sensitive language), but it does include a number of activities targeting women. It does not envisage activities directly targeting discrimination.

The **Local Action Plan for inclusion of Roma men and women (in the following areas: education, employment, healthcare and housing) for the period January 2018 – December 2021**¹⁸⁴ was developed in a participatory manner, through the working group established by the Prokuplje Roma Society. The AP makes reference to the national strategic framework. It covers five thematic areas as envisaged by the national strategy, along with cross-cutting issues of gender equality and anti-discrimination. The AP states the budget for implementation of activities, in the amount of RSD 20,000,000 for the implementation period. The AP does not state the reporting cycle for reporting on its implementation.

According to publicly available data¹⁸⁵, the city of Prokuplje does not have adopted local action plans in the areas of education, housing, healthcare and social protection, whilst it does have the adopted Action Plan for employment for the year 2016 (which recognises the Roma as a

183 Municipality Prokuplje, Strategy of sustainable development of municipality Prokuplje, 2007.

184 Municipality Prokuplje, Local action plan for social inclusion of Roma men and women (in the areas of: education, employment, health care and housing) for the period January 2018 – December 2021.

185 The City of Prokuplje, <https://prokuplje.org.rs/strateska-dokumenta/>, as of 24.12.2019.

category of persons hard to employ). There is no separate local strategic plan in the area of anti-discrimination, but there is an action plan for empowerment of women and enhanced gender equality in the Municipality of Prokuplje 2014-2017 (which does not recognise Roma women as a separate target group).

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related mostly to the area of housing (asphalt-covering of roads, constructing water supply networks, developing the detailed regulation plan, sewerage network, etc.).

2.7. Smederevo

On the basis of data for 2018 from the **Database for monitoring Roma inclusion measures**¹⁸⁶, the territory of the town of Smederevo had a total of 2,369 persons of Roma nationality, which is about 2.2% of the total population. The local council for interethnic relations is not established, but there is a council for healthcare (not including members of Roma nationality) and the commission for gender equality, with members of Roma nationality. The Coordinator for Roma Issues is engaged and this post is systematised. In the territory of the city there is one health mediator engaged and one pedagogical assistant.

According to the data from the Index of Social Development¹⁸⁷, in the territory of the city of Smederevo in 2016 a total of 86.56% of children attended the preparatory pre-school programme, whilst primary school was attended by 96.22% of children (according to the data of the Association of Coordinators for Roma Issues (ARC) collected in the preparatory stage of the ROMACTED Programme, in 2018, 489 out of a total of 581 Roma children aged 6-15 years were attending school).

186 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

187 SIPRU, *Index of social development of towns and municipalities*, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

With respect to the labour market, the unemployment rate increased from 23.1% to 25.71% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED programme, only 6.8% of Roma have a job).

With respect to healthcare, the number of doctors per thousand of the population has increased from 2.2 in 2011 to 2.3 in 2016, while the rate of DTP vaccination was 98.3%.

According to data from the **Poverty Map of Serbia**¹⁸⁸, the rate of relative poverty in the total population in 2016 was 2.5%, which was less than the national average at 3.6%. At the same time, in the period 2011-2016 expenditure for social protection per capita decreased from RSD 3,982 to RSD 1,678.

According to the data of **ARC**, collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 40% of Roma households were not able to pay bills for utility services.

According to data from the **Poverty Map of Serbia**, the rate of relative poverty in the territory of the City of Smederevo was 26.8%, compared to 24,5% which is the rate for the Republic of Serbia.

With respect to tasks related to social inclusion of Roma men and women, **the Statute of the City of Smederevo**¹⁸⁹, in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Meeting the needs of citizens in the areas of education, healthcare, social protection and children's protection;
- Protecting the rights of vulnerable groups;
- Achievement, protection and enhancement of human and minority rights and gender equality.

The Statute does not determine competences with respect to housing support and employment. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

188 The National Statistical Office, Poverty Map in Serbia, Belgrade, 2016.

189 Statute of the City of Smederevo, "Official Gazette of the City of Smederevo", No. 12/2016-edited text and 1/2019, Article 14.

According to publicly available data, the City of Smederevo does not have an adopted strategy of sustainable development or strategy of city development, but only the **Strategic Plan of Local Economic Development**¹⁹⁰ which does not recognise Roma men and women as a separate target group.

The City of Smederevo has a valid **Local Action Plan for improving the position of Roma in Smederevo for the period 2018 - 2021**¹⁹¹. It was developed in a participatory manner, through meetings and consultations with representatives of civil society and the Roma population. The Action Plan makes reference to international human rights standards and the national legal and strategic framework. It covers five thematic areas as envisaged by the national strategy. It does not include the cross-cutting issues of gender equality or anti-discrimination. The budget was determined for the year 2018 for implementation of activities in the amount of RSD 2,000,000. The mandate for monitoring implementation is of the team for monitoring and evaluation and the local council for improvement of the position of Roma in Smederevo. The Action Plan determines the procedure (but not the timeframe) for reporting on implementation.

According to publicly available data¹⁹², the City of Smederevo does not have adopted Local Action Plans in the areas of education, housing, employment, and healthcare, whilst it has an adopted Strategy of Social Protection Development for the City of Smederevo for the period 2015-2019 (recognising the Roma as a priority group). There are no separate local strategic documents related to anti-discrimination and gender equality.

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related mostly to the area of housing (asphalt-covering of streets, cleaning up landfills, addressing the safety of houses located in landslides, etc.)

190 The City of Smederevo, http://www.grad.smederevo.org.rs/Opstina-Smederevo-Pocetna_lat, as of 24.12.2019.

191 The City of Smederevo, Local action plan for improvement of the position of Roma in Smederevo, 2018-2021.

192 The City of Smederevo, http://www.grad.smederevo.org.rs/Opstina-Smederevo-Pocetna_lat, as of 24.12.2019.

2.8. Subotica

On the basis of data for 2018 from the **Database for monitoring Roma inclusion measures**¹⁹³, according to official data for the territory of the town of Subotica there were 2,959 persons of Roma nationality, which is about 2% of the total population. The local council is not established for interethnic relations, but there is a council for healthcare (with no members of Roma nationality) and a commission for gender equalit, with no members of Roma nationality either). The Coordinator for Roma Issues is engaged and this post is not systematised. In the territory of the city there is one health mediator engaged and five pedagogic assistants

According to the data from the Index of Social Development¹⁹⁴, in the territory of the City of Subotica in 2016 a total of 95.73% of children attended the pre-school preparatory programme, whilst primary school was attended by 91.04% of children (according to the data of the Association of Coordinators for Roma Issues (ARC) collected in the preparatory stage of the ROMACTED Programme, in 2018, 764 out of a total of 790 Roma children aged 6-15 years attended school).

With respect to the labour market, the unemployment rate decreased from 20.88% to 14.59% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 4.6% of Roma have a job).

With respect to healthcare, the number of doctors per thousand of the population increased from 2.37 in 2011 to 2.4 in 2016.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 4.5%, which was higher than the national average at 3.6%. At the same time, in the period 2011-2016 expenditure for social protection per capita decreased from RSD 7,381 to RSD 4,722.

193 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

194 SIPRU, *Index of social development of towns and municipalities*, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

According to the data of ARC, collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 30% of Roma households were not able to pay bills for utility services.

According to data from the **Poverty Map of Serbia**¹⁹⁵, the rate of relative poverty in the territory of the City of Subotica was 23.5%, compared to 24.5% in the Republic of Serbia.

With respect to tasks related to social inclusion of Roma men and women, the **Statute of the City of Subotica**¹⁹⁶, in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Conducting eviction procedures of persons illegally occupying flats and common premises in residential buildings;
- Establishing institutions in the area of social protection;
- Assisting the development of different forms of self-help and solidarity with persons with special needs and persons essentially in an unequal position with other citizens;
- Ensuring the exercise of human right and individual and collective rights of members of national minorities and ethnic groups.

The Statute does not determine competences with respect to education, housing support, employment and healthcare. The Statute established the Council for inter-ethnic relations.

The **Strategy of Local Sustainable Development of the City of Subotica 2013-2022**¹⁹⁷ includes social development as an area relevant for social inclusion of Roma men and women. It includes activities in the area of education, as regulated by national regulations, but it does not include measures of housing support. It also includes activities in the area of employment, healthcare and social protection. It includes gender equality as a cross-cutting issue (gender-sensitive language) and a number of measures targeting women. It does not envisage activities directly aimed at fighting discrimination.

195 The National Statistical Office, *Poverty Map in Serbia*, Belgrade 2016.

196 The Assembly of the City of Subotica, the Statute of the City of Subotica, No.: I-00-110-37/2008, 25.09.2008, Article 12.

197 The City of Subotica, Strategy of local sustainable development of the City of Subotica 2013-2022.

The **Local Action Plan for improving the position of Roma 2017-2021**¹⁹⁸ was developed in a participatory manner, through working groups including representatives of the Roma community. The Local Action Plan makes reference to international human rights standards, as well as the national legal and strategic framework. It covers five thematic areas as envisaged by the national strategy. It includes the horizontal aspects of gender equality (gender-sensitive language) and certain activities directly contributing to reducing discrimination. The budget is not identified for implementation of activities. The Council for monitoring the position of Roma in the territory of the City of Subotica is in charge of monitoring the plan. The Local Action Plan determines the annual reporting cycle.

According to publicly available data¹⁹⁹, the City of Subotica does not have adopted Local Action Plans in the areas of education, housing, employment, healthcare and social protection. It also does not have separate local strategic documents related to anti-discrimination and gender equality.

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related to the following areas:

- 1) education (adult education, early childhood inclusion of Roma children into pre-school education);
- 2) improving the housing conditions through infrastructure works (water supply networks).

198 The City of Subotica, Local Action Plan for improving the position of Roma 2017-2021.

199 The City of Subotica, <http://www.subotica.rs/index/index/lq/cp>, as of 24.12.2019.

2.9. Vranje

Based on the data for 2018 from the **Database for monitoring of measures for Roma inclusion**²⁰⁰, according to official data for the territory of the town of Vranje the number of persons of Roma nationality was 3,279 which is about 4.4% of the total population. The local councils are established for interethnic relations and healthcare (with no members of Roma nationality) and the commission for gender equality with no members of Roma nationality either. The City does not have an engaged coordinator for Roma issues. In the territory of the city there are two health mediators engaged and it has one pedagogical assistant.

According to the data from the Index of Social Development²⁰¹, in the territory of the City of Vranje in 2016, 107.76% of children attended the pre-school preparatory programme, whilst primary school was attended by 99.23% of children (according to data of the ARC collected during the preparatory stage of the ROMACTED Programme, in 2018, 559 out of a total of 900 Roma children aged 5-15 years were attending school).

With respect to the labour market, the unemployment rate increased from 25.75% to 28.01% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 6.4% of Roma have a job).

With respect to healthcare, the number of doctors per thousand of the population decreased from 3.63 in 2011 to 3.6 in 2016.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 3.9%, which was higher than the national average at 3.6%. At the same time, in the period 2011-2016 expenditure for social protection per capita decreased from RSD 4,895 to RSD 1,123.

According to the data of ARC, collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 35% of Roma households were not able to pay bills for utility services.

200 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

201 SIPRU, *Index of social development of towns and municipalities*, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

According to data from the **Poverty Map of Serbia**²⁰², the rate of relative poverty in the territory of the City of Vranje was 31.1%, compared to 24.5% in the Republic of Serbia.

With respect to tasks related to social inclusion of Roma men and women, the **Statute of the City of Vranje**²⁰³, in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Adoption of the spatial and urban development plans of the City;
- Ensuring the needs of citizens in the areas of education, healthcare, social protection, and children's protection;
- Protection of rights of vulnerable groups;
- Ensuring the exercise, protection and enhancement of human and minority rights and gender equality.

The Statute does not determine competences with respect to housing support and employment. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

The Strategy of Sustainable Development of the City of Vranje 2010-2020²⁰⁴ includes the strategic area of social activities as relevant to social inclusion of Roma men and women. It also includes activities in the area of education, as envisaged by national legislation, but it does not include measures of housing support. It also includes activities in the area of employment, healthcare and social protection. It does not include gender equality as a cross-cutting issue (for example, gender-sensitive indicators and gender-sensitive language), but it does include a number of activities targeting women. It does envisage activities directly targeting discrimination.

The City of Vranje does not have a valid Action plan for social inclusion of Roma men and women.

202 The National Statistical Office, *Poverty Map in Serbia*, Belgrade 2016.

203 Assembly of the City of Vranje, the Statute of the City of Vranje, No. 02-230/2018-10, 18.12.2018, Article 16.

204 The City of Vranje, Strategy of sustainable development of the City of Vranje 2010-2020.

According to publicly available data²⁰⁵, the City of Vranje does not have adopted local action plans in the areas of education, housing, employment, healthcare and social protection. There are no separate local strategic documents related to anti-discrimination and gender equality.

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related to the following areas:

- 1) Education (providing financial assistance for education, increasing motivation for education, involvement of more Roma men and women in training for additional or changes in qualifications, and courses within projects implemented by international organisations and the NES);
- 2) Improving housing conditions (changing urban development plans in order to legalise Roma settlements, installing the water supply, sewerage and precipitation collection networks, asphalt-covering of roads, installing street lighting, etc.);
- 3) Employment (increasing employment of youth aged 19-25 years under existing calls for applications under projects);
- 4) Healthcare (implementing activities in Roma settlements in order to increase the number of preventive check-ups in the field of gynaecology, cardiovascular diseases, diabetes and infectious diseases) and social protection (improving communication between social workers and citizens of Roma nationality).

2.10. Vrnjačka Banja

On the basis of data for 2018 from the **Database for monitoring Roma inclusion measures**²⁰⁶, the municipality had a total of 334 persons of Roma nationality, which is about 1.2% of the total population. The local council for inter-ethnic relations is established (with no members of Roma nationality), as is the healthcare council (with no members of Roma

205 The City of Vranje, <http://www.vranje.org.rs/>, as of 24.12.2019.

206 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

nationality), and also the commission for gender equality, with no members of Roma nationality. The Coordinator for Roma Issues is engaged, but this post is not systematised. There are no engaged healthcare mediators, but there is one pedagogical assistant.

According to the data from the Index of Social Development²⁰⁷, in the territory of the Municipality of Vrnjačka Banja in 2016 a total of 98.17% children attended the pre-school preparatory programme, whilst primary school was attended by 96.35% of children (according to the data of the Association of Coordinators for Roma Issues (ARC) collected in the preparatory stage of the ROMACTED Programme, in 2018, 55 out of a total of 92 children aged 6-15 years were attending school).

With respect to the labour market, the unemployment rate increased from 33.52% to 34.33% in the period 2011-2016 (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 0.5% of Roma has a permanent job).

With respect to healthcare, the number of doctors per thousand of the population has decreased from 3.27 in 2011 to 3.1 in 2016, while the rate of DTP vaccination was 92.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 1.4%, which is significantly lower than the national average of 3.6%. At the same time, in the period 2011-2016 expenditure for social protection per capita decreased from RSD 3,451 to RSD 488.

According to the data of ARC, collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 98% of Roma households were not able to pay bills for utility services.

According to the data from the **Poverty Map in Serbia**²⁰⁸, the rate of relative poverty in the Municipality of Vrnjačka Banja was 26.8%, compared to 24.5% in the Republic of Serbia.

With respect to tasks related to social inclusion of Roma men and women, the **Statute of the Municipality of Vrnjačka Banja**²⁰⁹, in line

207 SIPRU, Index of social development of towns and municipalities, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

208 The National Statistical Office, *Poverty Map in Serbia*, Belgrade 2016.

with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Adoption of spatial and urban development plans of the municipality;
- Conducting eviction procedures of persons illegally occupying flats and common premises in residential buildings;
- Establishing institutions and organisations in the area of primary education, primary healthcare, and children's protection;
- Establishing institutions in the area of social protection;
- Creating conditions for improvement, achievement and protection of human rights and individual and collective rights of members of national minorities and ethnic groups;
- Ensuring the achievement, protection and improvement of equality between women and men;
- Ensuring the achievement, protection and improvement of human rights;
- Assisting the development of different forms of self-help and solidarity with persons with special needs and persons essentially in an unequal position with other citizens.

The Statute does not prescribe municipal competences with respect to housing support and employment. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

The **Strategy of Sustainable Development of the Municipality of Vrnjačka Banja 2013-2023**²¹⁰ includes relevant objectives for social inclusion of Roma men and women: developed and preserved human resources and education. It covers activities in the area of education, measures of housing support, activities in the area of employment, healthcare and social protection. It does not include gender equality as a cross-cutting issue (for example, gender sensitive-indicators and gender-

209 The Statute of Municipality Vrnjačka Banja, „Official Gazette of municipality Vrnjačka Banja“ No. 16/12, Article 14.

210 Municipality Vrnjačka Banja, Strategy of sustainable development of the municipality Vrnjačka Banja 2013-2023.

sensitive language), nor does it include activities targeting women. It does not envisage activities directly targeting discrimination.

The Local Action Plan for Social Inclusion of Roma Men and Women in the Municipality of Vrnjačka Banja 2019-2021²¹¹ was developed in a participatory manner, through workshops and meetings with representatives of the Roma community, which was facilitated by the support of the ROMACTED Programme. The plan makes reference to the national strategic framework. It covers all five thematic areas as envisaged by the national strategy, along with cross-cutting issues of gender equality and anti-discrimination. The Plan states the budget for implementation of activities in 2019 amounting to RSD 10,530,139. The Action Plan determined also the annual reporting cycle on implementation, based on data regarding the implementation of measures and activities in the relevant areas of the LAP. The data will be collected by the ROMACTED Institutional Working Group which will, together with the Office for Roma Inclusion, define in its work plan the manner of organising the monitoring and evaluation of LAP implementation. As stated, annual reports will inform the local institution, the Roma community, and the general public of the effectiveness, efficiency, sustainability and impacts of the LAP on enhancing the position of the Roma community in Vrnjačka Banja.

According to publicly available data²¹², the Municipality of Vrnjačka Banja has adopted local action plans in the areas of housing, employment and healthcare (all of these documents recognise the Roma as a target group), while it does not have such documents for the area of education and social protection. There are no separate local strategic documents related to anti-discrimination and gender equality.

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related to the following areas:

- 1) education (providing transport for pupils in secondary schools, free meals for pupils in primary schools and scholarships for students, engaging pedagogical assistants, enabling additional training and

211 Municipality Vrnjačka Banja, Local action plan for social inclusion of Roma men and women in municipality Vrnjačka Banja 2019-2021.

212 Municipality Vrnjačka Banja, <http://vrnjackabanja.gov.rs/dokumenta/strateska-dokumenta/>, as of 24.12.2019.

- trades for unqualified Roma, and for Roma with completed secondary education);
- 2) improving the housing conditions (identifying funds for refurbishing of houses of returnees under readmission agreements).

2.11. Zaječar

On the basis of data for 2018 from the **Database for monitoring Roma inclusion measures**²¹³, according to official data the territory of the town of Zaječar had a total of 753 persons of Roma nationality, which is about 1.3% of the total population. The local council is not established for interethnic relations, but there is a local council for healthcare (with members of Roma nationality) and the commission for gender equality, also with members of Roma nationality. The Coordinator for Roma Issues is engaged, but this post is not systematised. There is one healthcare mediator engaged and two pedagogical assistants.

According to the data from the Index of Social Development²¹⁴, in the territory of the city of Zaječar in 2016 a total of 95.74% of children attended the pre-school preparatory programme, whilst primary school was attended by 94.53% of all children (according to the data of the Association of Coordinators for Roma Issues (ARC) collected in the preparatory stage of the ROMACTED programme, in 2018 275 out of a total of 337 Roma children aged 6-15 years were attending school).

With respect to the labour market, the unemployment rate in the period 2011-2016 stayed at the level of 35.99% (according to data from ARC for 2018, collected in the preparatory stage of the ROMACTED Programme, only 6% of Roma have a job).

With respect to healthcare, the number of doctors per thousand of the population dropped from 3.7 in 2011 to 3.6 in 2016, while the rate of DTP vaccination was 96%.

213 The National Statistical Office, *Database for monitoring the measures of Roma inclusion*, <http://www.inkluzijaroma.stat.gov.rs/sr>, as of 16.12.2019.

214 SIPRU, *Index of social development of towns and municipalities*, <http://www.socijalnoukljucivanje.gov.rs/indeks/>, as of 15.12.2019.

Data in the field of social protection indicate that the share of beneficiaries of monetary social benefits in the total population in 2016 was 4.3%, which is higher than the national average at 3.6%. At the same time, in the period 2011-2016 expenditure for social protection per capita dropped from RSD 5,310 to RSD 1,351.

According to the data of ARC, collected in the preparatory stage of the ROMACTED Programme, in 2018 as many as 60% of Roma households were not able to pay bills for utility services.

According to data from the **Poverty Map of Serbia**²¹⁵, the rate of relative poverty in the territory of the city of Zaječar was 26.5%, compared to 24.5% in the Republic of Serbia.

With respect to tasks related to social inclusion of Roma men and women, the **Statute of the City of Zaječar**²¹⁶, in line with the Constitution and the legal framework, prescribes the competences of the municipality related to:

- Adoption of spatial and urban development plans;
- Conducting eviction procedures of persons illegally occupying flats and common premises in residential buildings;
- Establishing institutions in the area of social protection;
- Creating conditions for improvement, achievement and protection of human rights;
- Assisting the development of different forms of self-help and solidarity with persons with special needs and persons essentially in an unequal position with other citizens;
- Ensuring the exercise, protection and enhancement of human rights and individual and collective rights of members of national minorities and ethnic groups;
- Ensuring the exercise, protection and enhancement of equality between women and men.

215 The National Statistical Office, *Poverty Map in Serbia*, Belgrade 2016.

216 The Statute of the City of Zaječar, "Official Gazette of the City of Zaječar", No. 1/2008, 3/2008 - corr., 20/2009, 21/2011, 56/2013, 22/2014 and 8/2016, Article 14.

The Statute does not determine competences with respect to housing support, employment and healthcare. There are also no special measures envisaged nor mechanisms for social inclusion of Roma men and women.

According to publicly available data, the city of Zaječar does not have an adopted strategy of sustainable development or strategy of city development, but only the **Strategy of Local Economic Development of the City of Zaječar for the period 2015-2020**²¹⁷ including the goal relevant to social inclusion of Roma men and women: improved labour force. It covers activities in the area of education, as regulated by national regulations, but it does not include measures of housing support. It also includes activities in the area of employment, healthcare and social protection. It also includes gender equality as a cross-cutting issue. It does not envisage activities directly targeting discrimination.

The City of Zaječar does not have a valid Action Plan for social inclusion of Roma men and women.

According to publicly available data²¹⁸, the city of Zaječar does not have local action plans in the areas of education, housing, healthcare and social protection, while it does have an adopted local action plan in the area of employment for 2019 (which recognises the Roma as a target group). There are no separate local strategic documents related to anti-discrimination or gender equality.

On the other hand, the priorities of the Roma population, as identified by local action groups within the ROMACTED Programme, are related to the following areas:

- 1) education (distribution of school supplies);
- 2) employment;
- 3) improving housing conditions (providing housing and asphalt-covering of streets/roads).

217 The City of Zaječar, Strategy of local economic development of the City of Zaječar for the period 2015-2020.

218 The City of Zaječar, <http://www.zajecar.info/>, as of 24.12.2019.

CONCLUSIONS AND RECOMMENDATIONS

On the basis of data resulting from this analysis, several groups of conclusions and recommendations can be formulated: first, conclusions and recommendations related to the broader social and political context in which policies for social inclusions of Roma men and women are made and implemented; second, conclusions and recommendations related to the existence and the manner of removing systemic barriers to the social inclusion of Roma men and women in the regulatory framework at the national level (in the system of local self-governments, protection of human and minority rights, education, housing, employment, healthcare, social protection, anti-discrimination, and gender equality); third, conclusions and recommendations related to the situation at local level (mechanisms, LAPs, trends, and the legal and strategic framework).

Contextual conclusions and recommendations

It should first be noted that the system of local self-government in the Republic of Serbia cannot be viewed separately from the public administration system. Certain competences of local self-governments are such as they are exactly due to conditions imposed by the broader system, and its weaknesses and irrationalities are a “reflection of irrationality and weaknesses of the public administration structure”²¹⁹. Thus, the performance of public functions at local level in the area of social inclusion of Roma men and women is directly linked to how they are performed at national level. Lack of functionality of the Coordinating Body for the implementation of the Strategy of Social Inclusion of Roma Men and Women, the absence of an action plan for the period 2019-2020, and the absence of reports on Strategy implementation and the preceding action plan send a very negative message to local self-governments that they too should not allocate their resources – attention, time, staff, budget – to these issues. In addition to legally binding documents which it adopted in the course of EU accession (such as the Action Plan for Chapter 23), the Government of the Republic of

219 Standing Conference of Towns and Municipalities, Analysis of competences of units of local self-government in Serbia, Belgrade 2010, p. 9.

Serbia has undertaken a political commitment to strengthen efforts aimed at the social inclusion of Roma men and women by signing the Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process in Poznan in July 2019. Although it is not a legally binding document, the Declaration sets priorities relying on the existing Operational Conclusions for all individual countries of the Western Balkans. With respect to the Republic of Serbia, there is an illustrative example of the degree of achievement of a number of priorities identified by the Declaration (Table 1).

Table 1: the degree of achievement of selected priorities of the Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process – the Republic of Serbia

Declaration priorities	Situation in the Republic of Serbia
Wherever possible, legalize all informal settlements where Roma live.	There is as yet no systemic solution for this problem, rather housing issues are dominantly addressed at the level of individual settlements or families and individuals. The draft housing strategy has been in preparation for two years. Non-government organisations are proposing a law on legalisation of Roma settlements ²²⁰ , but this proposed law has not attracted the attention of decision-makers.
Strengthen the government structures to protect against discrimination and establish a specific sub-division for non-discrimination of Roma within the formal non-discrimination bodies to process complaints by Roma, provide legal support to alleged victims and identify discrimination	The capacities of the Department for Anti-Discrimination Policy and Enhancement of Gender Equality within the Ministry of Labour, Employment, Veteran and Social Affairs are inadequate. This department does not have a unit for anti-discrimination for Roma, and it is managed by an acting

220 Standing Conference of Roma Associations, „Preliminary draft law on legalization of informal Roma settlements“, https://www.ligaroma.org.rs/images/stories/prednacrtr-zakona-o-legalizaciji-odrzivih-neformalnih-romskih-naselja_11.9.2014_1.pdf.

<p>schemes, including institutional and hidden discrimination.</p>	<p>assistant minister. The Commissioner for Equality within its structure does not have a separate department for anti-discrimination for Roma, nor is such an organisational part proposed by the draft Law on Changes and Amendments to the Anti-Discrimination Law.</p>
<p>Ensure to strengthen and support the National Roma Contact Points.</p>	<p>The Government has not formally appointed the National Roma Contact Point, thus there is absence of coordination between the CB and the MoLEVSA towards the EC and other institutions and organisations relevant to the EU accession process, such as the Regional Cooperation Council.</p>
<p>Undertake to establish official channels and mechanisms for joint inclusion of local government and Roma communities in formulating public policies, decision-making and implementation and monitoring of efforts undertaken in order to achieve the objectives of the declaration.</p>	<p>The SCTM is a member of the CB, but there is no substantive link between its operation in the area of social inclusion of Roma men and women, including within the Network for Roma Issues, on the one hand and the advocacy of LSG interests during the sessions of the CB, on the other.</p>

Source: Regional Cooperation Council, Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process, 2019; assessment of the author.

Secondly, Article 20 of the Constitution prescribes the prohibition of reducing the achieved level of human and minority rights. However, in the opinion of some collocutors interviewed in the preparations for this analysis, one of the key problems related to the respect of human rights in Serbia is that the legal framework transposing international human rights standards has undergone significant changes and amendments in recent years, reducing the level of standards related to vulnerable population groups. For example, the solution contained in the new Law

on Financial Assistance to Families with Children²²¹ particularly affects the Roma population with respect to achieving social protection rights, such as the provision regulating vaccination and school attendance. Another example is the reduced minimum unemployment compensation by almost a third, resulting from changes in the Law on Employment and Unemployment Insurance²²², which is fully in contrast to the Conclusions of the UN Committee for Economic, Social and Cultural Rights which recommended to Serbia to increase compensations in case of unemployment in order to ensure for unemployed workers and their families an adequate standard of living²²³. A similar example are some solutions from the Law on Free Legal Aid²²⁴, primarily those prescribing excessively short deadlines for achievement of this right and exclusion of civil society organisations from the list of providers. This is in violation of the commitment undertaken under the Operational Conclusions of the Seminar on social inclusion of Roma men and women according to which in order to ensure efficient exercise of the right to access to justice “through the Law on Free Legal Aid a broad scope of free legal aid providers should be ensured, in order to respond to the needs of vulnerable groups in the Republic of Serbia”²²⁵. The new system is not functional because the capacities of competent authorities are not sufficient to ensure support in accordance with the procedural legal provisions. As assessed, vulnerable groups are naturally dependent on NGOs for provision of support, rather than on defence lawyers or municipal services. That is why changes in legislation are needed in order to initiate procedures to include also these organisations (particularly legal clinics who best understand the problems of vulnerable groups), while representation before courts, in line with the constitutional provisions, would be the domain of defence lawyers.

Thirdly, it is important to keep in mind that the quality of social inclusion of Roma men and women at local level cannot be viewed independently of the quality with which units of LSG address other issues under their competences, be it source competences or delegated ones. In

221 „The Official Gazette RS”, No. 113/2017 and 50/2018.

222 „The Official Gazette RS”, No. 36/2009, 88/2010, 38/2015, 113/2017 and 113/2017 - other laws.

223 Committee for Economic, Social and Cultural Rights, Final Observations on the second periodical report by Serbia, 2014, p. 8.

224 „The Official Gazette RS”, No. 87/2018.

225 Seminar: Social inclusion of Roma men and women in the Republic of Serbia, 11 June 2015 – Operational Conclusions, p. 4.

other words, the quality of administration at local level is decisive in how LSG deal with the issue of social inclusion of Roma men and women. For example, how could one expect local self-governments to establish a body in charge of monitoring the LAP for Roma inclusion and to adopt reports on implementation when, according to certain data, only 13% of all LSG have bodies in charge of key local documents, development plans, and only 6% of them monitor and report on their implementation²²⁶. It is therefore not surprising that the worst results in implementing the principles of good governance are recorded in the area of "Equality", specifically in terms of defining local policies according to the needs of vulnerable population groups, and particularly with respect to local programmes for improving the position of Roma men and women²²⁷. According to the recently conducted mapping, a small number of units of LSG have adopted strategic and planning frameworks for social integration of Roma men and women (less than one in five), while most of them have not adopted their LAP(s) for employment; social protection development programmes, although mandatory according to the Law on local Self-Government, are adopted by only four of the 31 analysed units of LSG²²⁸. With respect to institutional capacities of LSG, more than two thirds of LSG do not have the council for social inclusion of vulnerable groups, only one LSG has an Office for Roma Issues, and in almost 60% of them employees have not attended training for strategic planning in areas relevant to social inclusion²²⁹. Therefore, despite the good intentions of actors such as the SCTM, which is developing guides for preparation of LAP for Roma inclusion²³⁰, there is a question as to how the new advanced requirements of the Law on the Planning System for development of local acts will be achieved in this area, when the adoption of such standards at least partially caused a standstill in adopting strategic documents at the national level (for example, the draft Housing Strategy and the AP for the Strategy of Social Inclusion of Roma

226 Standing Conference of Towns and Municipalities, Analysis of effects and capacities of units of local self-government in implementing the principles of good governance, Belgrade 2018, p. 12-13.

227 *Ibid.*, p. 14-15.

228 Standing Conference of Towns and Municipalities, Assessment of capacities of units of LSG in the area of social protection and achieving social inclusion of vulnerable groups, Belgrade 2019., p. 5.

229 *Ibid.*, p. 9. i 34.

230 Document available at:
http://www.skgo.org/storage/app/uploads/public/157/002/359/1570023596_Vodic%20za%20pripremu,%20budzetiranje%20i%20pracenje%20lokalnog%20akcionog%20plana%20za%20inkluziju%20Roma.pdf

men and women), particularly having in mind all the challenges that the LSG are faced with – lack of political will at central level, prohibition of employment and austerity measures in the public administration, and the declining capacities of LSG to address their basic functions. Due to the increasingly complex policies accompanied by the reducing state apparatus, it is increasingly difficult to perform the primary functions of public administration and local self-governments, not to mention more advanced public policy planning and implementation (particularly for vulnerable groups which are seldom perceived as priority at the level of LSG). Under such circumstances, as was stated in one of the interviews conducted in preparation for this analysis, the key success factors of some (rare) units of local self-government, such as Vršac and Sombor, are the combination of political will and enthusiasm, on the one hand, and good quality of local administration, on the other. There are troublesome data from the most recent survey by the Ombudsman according to which as many as 71% of respondents in informal settlements have never heard of the Strategy of Social Inclusion of Roma Men and Women²³¹. While 50% of respondents think that the problems of Roma in the place where they live should be solved by local self-government²³², there is no data in practice stating that some units of LSG discussed at the level of Municipal Assembly the report on implementing the LAP²³³. At the same time, the Action Plan for Chapter 23 includes an activity related to updating or adopting local strategies and action plans for social inclusion of Roma men and women. According to the only publicly available report on implementation of the Strategy of Social Inclusion of Roma Men and Women (prepared by the Regional Cooperation Council), 32 LSGs adopted LAPs, 40 established councils for interethnic relations²³⁴, 67 established councils for healthcare, and 86 established local gender equality bodies²³⁵. The Government still counts mostly on donor support with respect to key strategic documents of local self-governments, so the Report on Implementation of Operational Conclusions states that,

231 The Ombudsman, Special Report by the Ombudsman on Implementation of the Strategy for Social Inclusion of Roma Men and Women with Recommendations, Belgrade 2019, p. 15.

232 *Ibid.*, p. 16.

233 *Ibid.*, p. 71.

234 According to data collected through interviews conducted during preparations for this analysis, 73 units of LSG in their statutes envisaged councils for interethnic relations as a local body, of the 72 JLS who were obliged to do so, in line with the Law on Protection of Rights and Freedoms of National Minorities.

235 The Regional Cooperation Council – Roma Integration 2020, "Report on implementation of the Strategy for social inclusion of Roma men and women in the Republic of Serbia 2016-2025 in 2016".

through the ROMACTED Programme, support will be provided to local self-governments to adopt and update strategies and action plans for social inclusion of Roma men and women at local level by means of mentoring by experts and exchange of knowledge among units of LSG. It could be said that the findings of the present analysis would have been even more strongly negative if its scope had also covered the financial aspects such as the amount of funds appropriated from budgets of units of local self-government for funding LAP for social inclusion of Roma men and women, results achieved in introducing programme budgeting and gender responsive budgeting at local level, and assessment of quality of links between them and the process of preparation and adoption of local strategic documents.

Having in mind the above, the following conclusions and recommendations can be formulated:

1. The Government of the Republic of Serbia neglects the negative effects of austerity measures on social development and social inclusion of vulnerable groups in the Republic of Serbia.

RECOMMENDATIONS: In order to remove the aforementioned systemic barrier, the Government should: urgently terminate the prohibition of employment in the public sector, develop an affirmative action for employment of Roma in the public sector (in line with the Action plan for achievement of rights of national minorities), and initiate a programme of social investment funded from the national budget, the design of which should substantively involve representatives of vulnerable groups, including representatives of the Roma community.

2. The Government of the Republic of Serbia is not demonstrating a sufficient level of political commitment to the social inclusion of Roma men and women, thus violating the principle of rule of law and commitments undertaken by the Action Plan for Chapter 23.

RECOMMENDATIONS: In order to remove the aforementioned systemic barrier, the Government should: urgently and without delay adopt the Action Plan for Implementation of the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia 2016-2025 for the period 2019-2020; the CB should at the beginning

of 2020 appoint the new membership which will include representatives of all line ministries and convene meetings as prescribed, at least six times a year, preceded by meetings of the technical group; the Government should at the beginning of 2020 appoint the national contact point for Roma inclusion in the process of EU accession; the President of the CB and the Minister in charge of Labour, Employment, Veteran and Social Affairs should be joint hosts of the next national EC seminar on Roma inclusion; the Government should enhance the capacities and position of OHMR and SIPRU, in line with the measures envisaged by the Strategy.

- 3. The social inclusion of Roma men and women in the Republic of Serbia is suffering due to the complex institutional, legal and strategic framework and systemically weak coordination at the national level which is reflected in the existence of parallel "tracks", the non-functional CB, weak capacities of the OHMR, unresolved legal status and competences of SIPRU, weak competences of the NCRNM, and overlapping in measures and processes of reporting under the AP for Chapter 23, Operational Conclusions and the Strategy.**

RECOMMENDATIONS: In order to remove the aforementioned systemic barrier, the European Commission should, with the technical support of the United Nations and the Council of Europe, develop and present to the Government of the Republic of Serbia an expert proposal for improvement (in terms of simplification and increased efficiency) of the institutional, legal and strategic framework and coordination mechanisms at the national level for social inclusion of Roma men and women in the Republic of Serbia until the end of 2020, with the involvement of experts from the Roma community.

- 4. The Government of the Republic of Serbia is not fulfilling obligations on monitoring the implementation of the Strategy of Social Inclusion of Roma Men and Women in the Republic of Serbia 2016-2025.**

RECOMMENDATIONS: In order to remove the aforementioned systemic barrier, it is necessary for the Government at the beginning of 2020 to adopt the report on implementation of the Strategy in the period 2016-2019 and establish a practice of regular adoption of

annual implementation reports under the Strategy which are to be presented to the National Assembly, and the discussion should be attended by all stakeholders, including also representatives of LSG and civil society, particularly Roma civil society associations.

Conclusions and recommendations related to existence and removal of systemic barriers in the regulatory framework

On the basis of the national regulatory framework analysis, the biggest number of systemic barriers to social inclusion of Roma men and women at local level, a total of 15, was identified in the area of local self-governments and protection of human and minority rights (Table 2). The next are the areas of housing and gender equality with five barriers, education, employment, healthcare and social protection with four barriers, and finally anti-discrimination with two. The most frequent systemic barrier in terms of harmonisation with international standards is the absence or incompleteness of rights according to international standards, while in terms of coherence there is the barrier that decentralisation of competences is not accompanied by financing.

Table 2: Systemic barriers in the regulatory framework of the Republic of Serbia to social inclusion of Roma men and women at local level

Area	Alignment with international human rights standards	Coherence
Local self-government and protection of human and minority rights	<ul style="list-style-type: none"> • Missing rights according to international standards • Missing rights under the competence of local self-government • Undefined rights • Terminological challenges • Absence of human rights-based 	<ul style="list-style-type: none"> • Legal gaps • Incomplete norms • Contradictions in the process of decentralisation • Unclear division of competences • Missing competences • Financing not harmonised with decentralisation of competences

	approach	<ul style="list-style-type: none"> • Unresolved issues • Absence of respect of rule of law principle • Existence of parallel “tracks” • Systemic lack of coordination at the national level
Education	<ul style="list-style-type: none"> • Missing rights according to international standards • Insufficient safeguards for exercise of rights 	<ul style="list-style-type: none"> • Absence of system support to local mechanisms • Financing not harmonised with decentralisation of competences
Housing	<ul style="list-style-type: none"> • Unregulated right to housing • Absence of definition of public interest in compliance with international standards • Eviction and resettlement procedure not harmonised with international standards 	<ul style="list-style-type: none"> • Normative and strategic gaps causing weak responsiveness local self-governments • Unsustainable financing of housing support
Employment	<ul style="list-style-type: none"> • Missing rights according to international standards • Limited rights 	<ul style="list-style-type: none"> • Absence of respect of rule of law principle • Limited competences of local self-governments
Healthcare	<ul style="list-style-type: none"> • Incomplete rights 	<ul style="list-style-type: none"> • Absence of respect of rule of law principle

		<ul style="list-style-type: none"> • Financing not harmonised with decentralisation of competences • Absence of system support to local mechanisms
Social protection	<ul style="list-style-type: none"> • Incomplete rights • Restrictive interpretation of the law 	<ul style="list-style-type: none"> • Not regulated system of financing as a consequence of incomplete decentralisation • Absence of system support to local mechanisms
Anti-discrimination	<ul style="list-style-type: none"> • Incomplete rights 	<ul style="list-style-type: none"> • Centralisation of competences
Gender equality	<ul style="list-style-type: none"> • Incomplete and unclearly defined rights 	<ul style="list-style-type: none"> • Absence of respect of rule of law principle • Systemic lack of coordination at the national level • Financing not harmonised with decentralisation of competences • Decentralisation not implemented effectively

1. LOCAL SELF-GOVERNMENT AND PROTECTION OF HUMAN AND MINORITY RIGHTS:

The Constitution in these areas does not prescribe the right to a standard of living and the right to universal secondary education, although these rights are enshrined in international human rights instruments ratified by the Republic of Serbia. There is an absence of the right to housing, as prescribed by the revised European Social Charter. The Constitution does not envisage the source competences of local self-government in the areas of employment, housing, prohibition of discrimination, and gender equality. In addition, the Constitution and laws in these areas are terminologically inconsistent with each other. Two key areas are not regulated as areas under the competences of local self-government, employment and housing, as well as anti-discrimination as a cross-cutting issue of the Strategy of Social Inclusion of Roma Men and Women. There is an unclear definition of rights that local self-government is in charge of protecting. Equally, a lack of clarity exists in terms of division of competences between the national and local level, which should be addressed by the new strategy of decentralisation of the Republic of Serbia. That document should also resolve the lack of clarity in terms of financing functions under the competences of local self-government, due to inconsistencies between the Law on Local Self-Government and the Law on Financing of Local Self-Government, which does not envisage general transfers in all the areas under the competences of local self-government. Appropriations for the social inclusion of Roma men and women in budgets of LSG are difficult to determine and monitor their execution, due to which there is a need to introduce budgeting that is responsive to the Roma into the national and local budgets. The Law on the Protection of Rights and Freedoms of National Minorities enables provision of support only to technical staff within the education system, neglecting the support needed for other mechanisms relevant to the social inclusion of Roma men and women at local level. This law also needs to be amended in order to envisage affirmative action for employment of members of the Roma national minority in the public sector, according to the Action Plan for achievement of the rights of national minorities, as well as in order to address issues of members of the Roma community declaring their nationality by prescribing the format of the certificate to be issued by the National Council of the Roma National Minority. Additionally, there is a need to address the sustainability of local mechanisms for social inclusion

of Roma men and women, primarily coordinators for Roma issues, through the Law on local Self-Government. With respect to the Strategy for Social Inclusion of Roma Men and Women, the problem is that it is not human-rights based and it does not recognise the right to an adequate standard of living.

RECOMMENDATIONS:

1) Make additions to the Constitution so that it determines the right to a standard of living, the right to universal secondary education, and the right to housing;

2) The source competence of local self-governments should be in the areas of employment, housing, anti-discrimination and gender equality;

3) Conduct terminological harmonisation between the Constitution and other relevant laws so that they reflect the human rights-based approach, use gender sensitive language and recognise the Roma national minority as entitled to exercise the rights;

4) Make additions to the Law on Local Self-Government so that it prescribes the source competences of unit of local self-government for the areas of employment, housing and anti-discrimination; amend the law so that it defines more precisely the tasks in the area of protection of human and minority rights and protection of rights of vulnerable groups; make additions so that it prescribes the obligation of the LSG to appoint coordinators for Roma issues as employees of the local self-governments;

6) Conduct a functional review of the area of social inclusion of Roma men and women at local level;

7) Compile a list of tasks in the area of social inclusion of Roma men and women at the level of local self-governments;

8) Draft and adopt without delay a strategy of decentralisation of Serbia or another appropriate strategic document in order to clarify the competences between the national and local level of government;

9) Make additions to the Law on Financing Local Self-Governments so that it prescribes general transfers for other areas relevant to the social inclusion of Roma men and women at local level – employment, education (pre-school education and upbringing), healthcare and social

protection in a broader sense, as well as the areas of anti-discrimination and gender equality;

10) Support the introduction of budgeting responsive to Roma men and women according to the methodology developed by the Regional Cooperation Council by providing training for LSG and by changing and amending the Budget System Law and the Law on Financing of Local Self-Governments;

11) Make changes and amendments to the Law on the Protection of Rights and Freedoms of National Minorities so that it prescribes the possibility of providing support to all mechanisms of relevance to social inclusion of Roma men and women by local self-governments, introduces affirmative action of employment of members of the Roma national minority in the public sector, and prescribes the format for statements by Roma on their nationality issued by councils of national minorities (or another model, based on findings of a review of best practice in Europe that would be conducted in advance with the support of the Council of Europe);

12) In cooperation with the OHCHR, make changes and amendments to the Strategy of Social Inclusion of Roma Men and Women in the Republic of Serbia for the period 2016-2025 so that it introduces the human rights-based approach and the right to an adequate standard of living.

2. EDUCATION:

The Law on Fundamentals of the Education System does not prescribe the right to universal secondary education, which should at the same time be free. This law does not provide sufficient guarantee for the right to education for members of the Roma population, and additionally there is mention of solutions which would additionally aggravate their access to higher education. There is concern over the situation at local level in terms of capacities of local mechanisms and availability of funding to address negative issues, such as the increasing segregation in schools. There is a lack of clarity with respect to solutions for financing the system of education due to which the pre-school and primary school systems are not receiving sufficient funds for integration of vulnerable groups.

RECOMMENDATIONS:

1) Make changes and additions to the Law on Fundamentals of the Education System so that it prescribes the right to universal and free secondary education, establishment of intersectoral commissions as standing bodies within units of local self-governments, affirmative action for enrolment of members of Roma population to higher education institutions, and legal-labour status of pedagogical assistants;

2) Adopt bylaws regulating standards for support to vulnerable groups at the level of pre-school and primary education which must be fulfilled by all units of LSG.

3. HOUSING:

The Law on Housing and Buildings' Maintenance does not prescribe the right to housing, despite the fact that this right is envisaged by international human rights documents. It also does not regulate the public interest nor the eviction and resettlement procedure in line with such standards. It is unclear who is in charge of financing housing support at local level and what the housing needs of the population are, since the legal framework is incomplete, and the housing strategy has been in preparation for two years now. There are numerous other challenges in this area, primarily the weak capacities of local self-governments to address complex legal and property rights and design different forms of housing support in consultation with residents of settlements. An additional challenge is the need to legalise buildings that vulnerable groups use as housing and relieve users of social housing from high costs paid as tax and utility services.

RECOMMENDATIONS:

1) Ratify Article 31 of the Revised European Social Charter prescribing the right to housing;

2) Make changes and amendments to the Law on Housing so that it prescribes the right to housing, public interest, and eviction and resettlements procedures in line with standards set forth by the UN Committee for Economic, Social and Cultural Rights;

3) Draft and adopt the National Housing Strategy including measures for financing housing support programmes, mapping of housing needs at local level, resolving legal and property rights, and introducing different forms of housing support (for example, purchasing land, which is actually used, subsidies for utilities, etc.);

4) Make changes and amendments to the Law on Legalisation of Buildings in order to regulate the status of buildings used by vulnerable categories as urgent housing;

5) Make amendments to the Property Tax Law so that beneficiaries of social housing have the right to exemption (or reduction) from the obligation to pay property tax.

4. EMPLOYMENT:

The Law on Employment and Insurance in Case of Unemployment does not prescribe the right to just and satisfactory compensation for the work of persons according to international standards. As a result of this, for example, persons engaged in public works receive compensation lower than the minimum labour costs. Additionally, the laws in this area and in the area of social protection are mutually contradictory in excluding the exercise of the right to receiving financial social benefits by persons who are engaged to work and whose income exceeds the amount of benefits to which they are entitled. In addition, the Decree on measures of social inclusion of beneficiaries of financial social benefits states that it is possible to reduce or terminate the amount of this assistance in case that they, without justification, do not fulfil the obligations under the agreement on labour activation. This can be taken to represent forced labour according to international standards on human rights protection. There is concern over the refusal of the competent ministry to establish a working group to draft the National Action Plan for Employment with respect to affirmative measures for Roma. A systemic barrier to social inclusion of Roma men and women is the fact that the Law on Employment and Insurance in Case of Unemployment does not envisage source competences of local self-government in the area of employment policies.

RECOMMENDATIONS:

1) Make additions to the Law on Employment and Insurance in Case of Unemployment so that persons engaged in public works and other measures of active labour policies are guaranteed the amount of compensation which cannot be lower than the minimum labour cost;

2) Make changes and additions to the Law on Employment and Insurance in Case of Unemployment and the Law on Social Protection so that, while under the activation measure, there is still the possibility to exercise the right to monetary social benefits, also after the expiration of work activation of the person for a certain time period in case the amount of compensation exceeds the amount of the financial social benefits that the person is entitled to but which does not provide an adequate standard of living, according to international standards for the protection of human rights;

3) Make amendments to the Law on Employment and Insurance in Case of Unemployment so that it prescribes the employment policies as a source competence of local self-governments and establishes the obligation of LSG to adopt and fund employment action plans, with co-financing from the national budget;

4) Amend the Decree on measures of social inclusion of beneficiaries of financial social benefits so that it removes the possibility to reduce or terminate the amount of this financial social benefit in case that they, without justification, do not fulfil the obligations under the agreement on labour activation which, under international standards, are considered to be forced labour;

5) Establish a sub-group within the working group for drafting of the National Action Plan for Employment in order to enhance the existing and introduce new affirmative measures for Roma employment.

5. HEALTHCARE:

The Law on Healthcare does not prescribe the right of every person to achieve the best possible physical and mental health, which would be in compliance with international human rights protection standards. The Ministry of Health has been refusing for years now to address the issue of sustainability of health mediators, thus violating the obligations under

the Action Plan for Chapter 23 and the rule of law principle. Another systemic barrier is the fact that general transfers to local self-government are not envisaged in the area of healthcare.

RECOMMENDATIONS:

1) Make additions to the Law on Healthcare so that it prescribes the right of every person to achieve the best possible physical and mental health;

2) Urgently and without delay make amendments to the regulations so that the mechanism of health mediators is institutionalised and ensure their financial sustainability, including the right of the mediator to just compensation which must not be lower than or equal to the minimum price of labour.

6. SOCIAL PROTECTION:

The draft Law on Changes and Amendments to the Law on Social Protection proposes solutions which are introduced by the Decree on social inclusion measures for users of monetary social benefit, which are contentious from the perspective of international standards on human rights protection. On the other hand, there are efforts to avoid improvement of adequacy of social benefits, to which international actors have repeatedly drawn the attention of the Government of the Republic of Serbia; in addition, there are delays in fulfilling obligations enshrined in Operational Conclusions of the Seminar on Social Inclusion of Roma Men and Women (amendments to the Law on Social Protection and the Family Law) and to avoid the ratification of the Optional Protocol to the Convention on the Rights of the Child. There are also restrictions in the solutions according to which vulnerable persons are allowed only to register their housing address but not their residence address at the centre for social work, because in that case they are denied the right to healthcare. There is also a repressive approach to addressing the problem of children “living and working in the street”. There is a systemic barrier to social inclusion of Roma men and women at local level in the absence of general transfers for social protection, while earmarked transfers are used unsystematically and not transparently. The competent line ministry does not recognise European best practice and recommendations of the

Seminar on Social Inclusion of Roma Men and Women on integrating mediators from the Roma community into centres for social work.

RECOMMENDATIONS:

1) Amend the solutions from the draft Law on Changes and Amendments to the Law on Social Protection, so that it does not violate international standards applicable to forced labour;

2) Make changes and additions to the Law on Social Protection by improving the adequacy of monetary benefits for persons in social need and so as to fulfil the obligations undertaken by Operational Conclusions on introducing the services of family associates;

3) Make changes and amendments to the Family Law so as to prohibit physical disciplining of children in all contexts and prohibit minors' marriage;

4) Ratify the Optional Protocol to the Convention of the Rights of the Child;

5) Make changes and amendments to the Law on Provisional and Permanent Residence of Citizens in order to enable the registry of residence at the address of the centre for social work;

6) Adopt the Law on the Rights of the Child which will regulate in a systemic manner the rights and position of children who "live and work in the street", in compliance with international standards on human rights protection;

7) Enable piloting of programme of mediators from the Roma community in centres for social work.

7. ANTI-DISCRIMINATION:

The draft law on changes and Amendments to the Anti-Discrimination law did not implement harmonisation with international standards for protection of human rights in all aspects, for example, with the Council Directive No. 2000/43/EC which prohibits discrimination in the public and private sectors with respect to access to self-employment, and access to, and use of, assets and services available to the public, including to housing, which prescribes the obligation of states to enhance social

dialogue in order to support equal treatment. There is also a need to harmonise the definition of inciting discrimination in the Criminal Code with the proposed definition of incitement to discrimination. There is a systemic barrier in the area of anti-discrimination as the policy in this area is highly centralised, disabling local self-government in exercising tasks of preventing and suppressing discrimination. There is also a need to urgently adopt bylaws in the areas relevant to social inclusion of Roma men and women at local level, such as rulebooks in the area of social protection and healthcare. Finally, the mandate of the Commissioner for Equality could be formulated in a more proactive manner, because of the strong discrimination of members of the Roma community and difficulties in access to mechanisms for protection of their rights.

RECOMMENDATIONS:

1) Harmonise the Anti-Discrimination Law with the Council Directive No. 2000/43/EZ with respect to self-employment, housing and social dialogue as issues relevant in the context of anti-discrimination;

2) Harmonise the definition of incitement to discrimination in the Criminal Code with the proposed definition of incitement to discrimination in the draft Law on Changes and Amendments to the Anti-Discrimination law;

3) Make changes and additions to the Anti-Discrimination law so that it envisages source competences of local self-government for anti-discrimination policies and the competences of the Commissioner for Equality to be more proactive and comprehensive in providing information to applicants submitting complaints and informing the public;

4) Urgently adopt bylaws on the fight against discrimination in all areas of implementation of the National Strategy of Social Inclusion of Roma Men and Women.

8. GENDER EQUALITY:

The Law on the Equality of Sexes does not regulate the equal rights of women and men to enjoy all rights in compliance with international standards on human rights protection. In this area there is violation of the principle of rule of law, because the obligations are not fulfilled by

adopting the Law on Gender Equality in accordance with the obligations undertaken by the Action Plan for Chapter 23. Additionally, there are delays in fulfilling the obligations from the Operational Conclusions of the Seminar on social inclusion of Roma men and women. There is a systemic barrier in terms of poor coordination at the national level. In addition to that, financing of tasks in the area of gender equality does not accompany the competences delegated to local self-governments. Decentralisation in this area has not been effectively implemented because the gender equality mechanisms at local level are ineffective, and the Strategy for Social Inclusion of Roma Men and Women does not include special measures and activities to improve gender equality.

RECOMMENDATIONS:

1) Urgently adopt the Law on Gender Equality, as well as the Action plan for implementation of the National Strategy for Gender Equality for the period 2016-2020;

2) Prescribe the competences of local self-government in the area of gender equality through the Law on Gender Equality, including also through establishing and financing the gender equality mechanisms, with the support of the national budget through general transfers for gender equality;

3) Fulfil obligations from the Operational Conclusions of the Seminar on Social Inclusion of Roma Men and Women, such as developing rulebooks introducing the services of family associates²³⁶;

4) Ensure functional work of the Coordination Body for Gender Equality of the Government of the Republic of Serbia, by adopting the Rules of Procedure including the description of tasks of its members, appointing new members and ensuring regular financing of its work from the national budget;

236 It is planned that this service will include services such as family associates which proved during piloting to be very successful in working with Roma families. Service standards should also cover measures to address violence against women and early marriages. Source: The Government of the Republic of Serbia, Report on implementation of Operational Conclusions of the Seminar "Social Inclusion of Roma Men and Women in the Republic of Serbia for the period October 2017 – October 2019".

5) Make additions to the Strategy of Social Inclusion of Roma Men and Women so that it includes gender-sensitive indicators and measures to enhance gender equality at local level in all thematic areas.

Conclusions and recommendations related to the situation at local level

On the basis of analysis of the situation at local level, it was determined that in the majority of analysed units of LSG, there are local mechanisms in place and an increasing number of them have LAP for social inclusion of Roma men and women (Table 3). On the other hand, there are some negative trends related to social development and an insufficient legal and strategic basis for improvement of the position of Roma men and women at local level. It can be said that the identified systemic barriers in the regulatory framework of the Republic of Serbia are the main reason for the negative trends and weaknesses in the strategic approach to social development which, consequently, hinders the effective and efficient social inclusion of Roma men and women at local level.

Table 3: Key findings related to the situation at local level

LSG	Positive trend in areas of social development 2011 – 2016 (max 4 areas)	Existence of local mechanisms (councils, commissions, coordinators, mediators, assistants – max 6 mechanisms)	Statute envisages special measures and/or mechanisms for inclusion of Roma men and women (YES/NO)	Development strategy recognises priorities relevant to social inclusion of Roma men and women (YES/NO)	Existence of Action plan for social inclusion of Roma men and women (YES/NO)	Existence of valid action plans in areas of social development (max 7 areas)
Belgrade - Zvezdara	1	4	NO	YES	YES	0
Kragujevac	0	5	NO	YES	NO	0
Niš	1	Not available	NO	YES	NO	1
Odžaci	0	3	NO	YES	YES	1
Požarevac - Kostolac	0	4	NO	YES	YES	0
Prokuplje	1	5	NO	YES	YES	0
Smederevo	1	5	NO	NO	YES	1
Subotica	2	5	YES	YES	YES	0
Vranje	0	5	NO	YES	NO	0
Vrnjačka Banja	0	5	NO	YES	YES	3
Zaječar	0	5	NO	YES	NO	1

- 1. LOCAL MECHANISMS:** The most positive trend refers to the fact that in all analysed LSG (for which it was possible to get data), there are local mechanisms in place for the social inclusion of Roma men and women (council for interethnic relations, healthcare council, commission for gender equality, coordinator for Roma issues, healthcare mediator, pedagogical assistants), although none of them have all the mechanisms in place. The majority of LSG have engaged coordinators, mediators and assistants, but a minority of them have also established councils and commission, despite the legal obligations of LSG. There is reason for concern regarding the fact that the post of coordinator for Roma issues is systematised in only 4 out of the 11 analysed units of LSG.

RECOMMENDATIONS

1) Urgently and without delay establish councils for interethnic relations, healthcare councils, and gender equality commissions in all units of LSG, in line with the legal obligations and engage representatives of Roma community in their work;

2) Ensure systematisation of the post of coordinator for Roma issues in all LSG as employees of the local administration.

- 2. LOCAL ACTION PLANS: With respect to action plans for the social inclusion of Roma men and women, 4 out of 11 municipalities do not have a valid document. On the positive side, the valid LAPs mostly cover all thematic areas from the national strategy and have appropriated budgets for implementation of activities.**

RECOMMENDATIONS

1) Initiate the drafting and adoption of LAP for social inclusion of Roma men and women in all units of LSG where this has not been completed yet, based on a participatory approach which implies active participation of the Roma community and based on priorities identified by both the national strategy and the Roma community, with the financial support of the national budget and coordination by CB and SCTM;

2) Ensure coordination of the process of developing LAPs accompanied by the introduction and/or implementation of programme budgets and gender responsive budgets, with the support of the SCTM and along with the introduction of budgeting responsive to Roma men and women with the assistance of the Regional Cooperation Council (Action Team for Roma Integration 2020);

- 3. NEGATIVE TRENDS OF SOCIAL DEVELOPMENT: Based on the analysis of the situation at local level it was identified that as many as 6 out of the 11 analysed units of local self-government in the period 2011-2016 have not recorded positive trends in any area of social development (education, employment, healthcare, and social protection). In view of the limited available data according to the Index of social development of towns and**

municipalities which was used as a source of data, in some cases it was not possible to determine the trends (which, in general, leaves the equal possibility of it being positive or negative in the aforementioned period). Nevertheless, having in mind the post-crisis context and the situation in other units of local self-government, it can be reasonably assumed that, probably in those cases as well, there was no positive trend contrary to the majority negative trend at local level, for example, the reduced number of doctors or appropriations for social protection.

RECOMMENDATIONS

1) Increase appropriations for budgets of LSG for areas of social development: education, employment, healthcare, and social protection in line with the needs of the population;

2) Develop project proposals and requests for financing of services to the national budget and international donors.

4. **INSUFFICIENT LEGAL AND STRATEGIC BASIS:** With respect to the statutes of units of LSG, only in Subotica does this document determine the mechanism relevant to social inclusion of Roma men and women – council for interethnic relations. There is particular concern over the fact that as many as 6 out of the 11 analysed units of LSG do not have a single valid action plan in the different areas of social development, whilst others have only one each, with the exception of Vrnjačka Banja with three such action plans (since the source of this data are the webpages of units of LSG, it is possible that in some cases there are adopted action plans, but they are not published).

RECOMMENDATIONS

1) Make changes and additions to the statutes of LSG so as to include measures and mechanisms for the social inclusion of Roma men and women, such as councils for enhancing the position of Roma men and women and coordinators for Roma issues;

2) Urgently develop and adopt the missing strategic documents in the areas of social development, based on the methodology

prescribed in the Law on the Planning System, with the support of the SCTM and the RPPS.

It can be expected that systemic barriers to the social inclusion of Roma men and women at local level in the Republic of Serbia will be removed only if decision-makers take into consideration all the relevant levels, namely the social and political context, and situation and national and local level, and if the Roma community is involved in addressing this issue along with all other social actors who can contribute to a true participatory process, in line with the values of the Council of Europe and the European Union and the principles underlying the ROMACTED Programme.

REFERENCES

- 1) Annex to the Commission Implementing Decision amending Commission Decision C(2014)5872 of 19.8.2014 adopting the Indicative Strategy Paper for Serbia for the period 2014-2020.
- 2) Association of Coordinators for Roma Issues, *Guidelines for local action groups*, Valjevo 2018.
- 3) Charter of Fundamental Rights of the European Union.
- 4) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An EU Framework for National Roma Integration Strategies up to 2020.
- 5) Communication from the Commission to the European Parliament and the Council: Report on the implementation of national Roma integration strategies – 2019.
- 6) Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
- 7) Council of Europe, Strategy on Innovation and Good Governance at local level (Extract from the Valencia Declaration, 15th Conference of European Ministers responsible for local and regional government, Valencia, Spain, 15-16 October 2007).
- 8) European Committee of Social Rights, *Conclusions 2017 SERBIA*.
- 9) The European Parliament, the Council of the European Union and the European Commission, *European Pillar of Social Rights*.
- 10) European Commission, *2019 Serbia Report*.
- 11) European Commission, Non-paper on the current status in Chapters 23 and 24 for Serbia, November 2019.
- 12) European Charter of Local Self-Government.
- 13) Fondacija Centar za demokratiju (Foundation Centre for Democracy), Analysis of draft changes and amendments to the Law on Social Protection.
- 14) The city of Kragujevac, Sustainable Development Strategy of the City of Kragujevac 2013-2018.
- 15) The city of Požarevac, Sustainable Development Strategy of the City of Požarevac 2009-2013, 2009.

- 16) The city of Požarevac, Action plan for improvement of position of Roma in the territory of the city of Požarevac for the period 2016-2020, 2016.
- 17) The city of Smederevo, Local action plan for improvement of position of Roma in Smederevo, 2018-2021.
- 18) The city of Subotica, Local Sustainable Development Strategy of the City of Subotica 2013-2022.
- 19) The city of Subotica, Local action plan for improvement of position of Roma 2017-2021.
- 20) The city of Vranje, Sustainable Development Strategy of the City of Vranje 2010-2020.
- 21) The city of Zaječar, Local Economic development Strategy of the city of Zaječar for the period 2015-2020.
- 22) The city municipality Palilula - Niš, Development Action Plan 2017-2021, 2015.
- 23) The city municipality Zvezdara, Action plan for improvement of position of Roma in municipality Zvezdara for the period 2015-2020, XI No. 06 – 60 – 30.12.2014.
- 24) The city municipality Zvezdara, Strategic Development Plan for the City Municipality Zvezdara 2015-2020, 2015.
- 25) Report of the Standing Conference of Roma Associations (SCRA) – League of Roma on implementation of Operational Conclusions of the seminar „Social inclusion of Roma men and women in the Republic of Serbia“ for the period October 2017 - October 2019.
- 26) Office for Human and Minority Rights, Response of the Republic of Serbia to the recommendations of UN in the third cycle of the Universal Periodic Review, 2018.
- 27) Committee for Economic, Social and Cultural Rights, Concluding observations on the second periodical report by Serbia, 2014.
- 28) CEDAW Committee, Concluding observations on the fourth periodic report by the Republic of Serbia, 2019.
- 29) UN Human Rights Committee, Concluding observations on the third periodic report by Serbia, 2017.
- 30) Committee on the Rights of the Child, General comment number 21 (2017) on children in street situation.

- 31) Committee on the Rights of the Child, Concluding observations on the combined second and third periodic report by Serbia, 2017.
- 32) Committee on Elimination of Racial Discrimination, Concluding observations on the combined second, third, fourth and fifth periodic report by Serbia, 2017.
- 33) Local action plan for improvement of position of Roma in the city of Kragujevac for the period 2015 - 2018, „Official Gazette of the City of Kragujevac“ No. 44/2015.
- 34) International Labour Organisation, Forced Labour Convention No. 29.
- 35) Ministry of Justice, first draft of revised AP CH 23 amended based on comments by civil society organisations.
- 36) Ministry of Labour, Employment, Veteran and Social Issues, draft: Strategy of Social Protection in the Republic of Serbia for the period 2019 - 2025 – INITIAL VERSION.
- 37) Mišćević I., „Ozakonjenje stambenih objekata u romskim podstandardnim naseljima u Srbiji – analiza stanja i izazovi“ (Legalisation of housing buildings in substandard Roma settlements – analysis and challenges).
- 38) http://SCTM.org/storage/app/uploads/public/156/197/639/1561976390_Ozakonjenje%20stambenih%20objekata%20u%20romskim%20podstandardnim%20naseljima%20-%20analiza%20stanja%20i%20izazovi%20-%20I.Miscevic.pdf .
- 39) Models of organisation of local self-governments, PALGO Centre, Beograd, 2008.
- 40) Draft Law on Changes and Amendments to the Anti-Discrimination Law, <https://www.paragraf.rs/dnevne-vesti/050919/050919-vest13.html>.
- 41) Municipality Odžaci, Strategy of local sustainable development of municipality Odžaci 2015-2020, 2015.
- 42) Municipality Odžaci, Local action plan for improved education, employment, healthcare and housing of Roma men and women in municipality Odžaci for the period September 2016 – December 2020, 2016.
- 43) Municipality Prokuplje, Strategy of Sustainable Development of municipality Prokuplje, 2007.

- 44) Municipality Prokuplje, Local action plan for inclusion of Roma men and women (in the areas of: education, employment, healthcare and housing) for the period January 2018 – December 2021.
- 45) Municipality Vrnjačka Banja, Local action plan for social inclusion of Roma men and women in municipality Vrnjačka Banja 2019-2021.
- 46) Municipality Vrnjačka Banja, Strategy of Sustainable Development of municipality Vrnjačka Banja 2013-2023.
- 47) Regional Cooperation Council, Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process, 2019.
- 48) National Statistical Office, *Poverty Map in Serbia*, Beograd, 2016.
- 49) UN human Rights Council, Report by the Special Rapporteur on adequate housing as an integral part of the right to adequate standard of living and right to non-discrimination in this context on the visit to Serbia and Kosovo*, 2016.
- 50) The Regional Cooperation Council – Roma Integration 2020, „Report on implementation of the Strategy of social inclusion of Roma men and women in the Republic of Serbia 2016-2025 in the year 2016“.
- 51) Seminar: Social inclusion of Roma men and women in the Republic of Serbia, 11 June 2015 – Operational Conclusions.
- 52) Assembly of the city of Kragujevac, Statute of the city of Kragujevac, No. 110-18/19-I, 15.03.2019.
- 53) Assembly of the city of Niš, Statute of the city of Niš, No. 06-357/2008-3-02, 01.10.2008.
- 54) Assembly of the city of Niš, Local action plan for improvement of position of Roma in the territory of the city of Niš for the period 2017 - 2019.
- 55) Assembly of the city of Niš, Development programme of the city of Niš for 2020, 2019.
- 56) Assembly of the city of Subotica, Statute of the city of Subotica, No.: I-00-110-37/2008, 25.09.2008.
- 57) Assembly of the city of Vranje, Statute of the city of Vranje, No.: 02-230/2018-10, 18.12.2018.
- 58) Assembly of the city municipality Zvezdara, Statute the city municipality Zvezdara, I No.: 020 – 42 – 13.11.2008.

- 59) Municipal Assembly Odžaci, Statute of municipality Odžaci, No.: 011-5/2019-II, 14.02.2019.
- 60) Municipal Assembly Prokuplje, Statute of the city of Prokuplje, No.: 06-71/2018-02, 22.11.2018.
- 61) Standing Conference of Towns and Municipalities, Analysis of status of existing local policies, measures and mechanisms for Roma inclusion.
- 62) Standing Conference of Towns and Municipalities, Analysis of competences of units of local self-government in Serbia, Beograd, 2010.
- 63) Standing Conference of Towns and Municipalities, Analysis of effects and capacities of units of local self-government in implementing the principles of good governance, Belgrade, 2018.
- 64) Standing Conference of Towns and Municipalities, Assessment of institutional capacities of units of local self-government in the area of social protection and achievement of social inclusion of vulnerable groups, Belgrade 2019.
- 65) Standing Conference of Towns and Municipalities, Guidelines for Roma coordinators and employees in LSG monitoring inclusion of Roma at local level, Belgrade 2016.
- 66) Statute of the city of Smederevo, „Official Gazette of the City of Smederevo“, No. 12/2016-revised text and 1/2019, Article 14.
- 67) Statute of the city of Zaječar, „Official Gazette of the City of Zaječar“, No. 1/2008, 3/2008 - corr., 20/2009, 21/2011, 56/2013, 22/2014 and 8/2016.
- 68) Statute of municipality Vrnjačka Banja, „Official Gazette of municipality Vrnjačka Banja“ No. 16/12.
- 69) Social Inclusion and Poverty Reduction Unit, Mapping social protection services under the competences of LSG in the Republic of Serbia, Belgrade 2016.
- 70) The Universal Declaration of Human Rights.
- 71) The Constitution of the Republic of Serbia, „Official Gazette RS“ No. 98/2006.
- 72) The Council of city municipality Kostolac, Statute the city municipality Kostolac, No. 5-1/10, 03.02.2010.

- 73) Government of the Republic of Serbia, Action plan for achievement of rights of national minorities.
- 74) Government of the Republic of Serbia, Action plan for Chapter 23.
- 75) Government of the Republic of Serbia, Action plan for implementation of the Public Administration reform Strategy in the Republic of Serbia for the period 2018-2020.
- 76) Government of the Republic of Serbia, Report on implementation of the National Employment Action Plan for 2018.
- 77) Government of the Republic of Serbia, Report on implementation of Operational Conclusions of the seminar „Social inclusion of Roma men and women in the Republic of Serbia for the period October 2017 - October 2019“.
- 78) Government of the Republic of Serbia, National Strategy of Gender Equality for the period 2016 - 2020.
- 79) Government of the Republic of Serbia, National Strategy of Social Housing.
- 80) Government of the Republic of Serbia, National Strategy of Employment for the period 2011-2020.
- 81) Government of the Republic of Serbia, draft Action plan for implementation of the National Strategy of Gender Equality for the period 2019 - 2020.
- 82) Government of the Republic of Serbia, Public Health Strategy in the Republic of Serbia 2018-2026.
- 83) Government of the Republic of Serbia, Strategy on Prevention and Protection against Discrimination.
- 84) Government of the Republic of Serbia, Strategy of Public Administration Reform in the Republic of Serbia.
- 85) Government of the Republic of Serbia, Strategy of Social Protection Development.
- 86) Government of the Republic of Serbia, Strategy of Education development in Serbia until 2020.
- 87) Government of the Republic of Serbia, Decree on measures of social inclusion of beneficiaries of financial social benefits, „Official Gazette RS“ No. 112/14.
- 88) The Law on Financing Local Self-Governments, „ Official Gazette RS“ No. 62/2006, 47/2011, 93/2012, 99/2013 - harmonised RSD

amounts, 125/2014 - harmonised RSD amounts, 95/2015 - harmonised RSD amounts, 83/2016, 91/2016 - harmonised RSD amounts, 104/2016 – other laws, 96/2017 - harmonised RSD amounts, 89/2018 - harmonised RSD amounts and 95/2018 – other laws).

- 89) the Law on Local Self-Government, „Official Gazette RS“ No. 129/2007, 83/2014 – other laws, 101/2016 – other laws other laws and 47/2018.
- 90) The Law on National Councils of National Minorities, „Official Gazette RS“ No. 72/2009, 20/2014 – decision Constitutional Court, 55/2014 and 47/2018).
- 91) The Law on Fundamentals of the Education System, „Official Gazette RS“ No. 88/2017, 27/2018 - other laws, 10/2019 and 27/2018 - other laws).
- 92) The Law on the Planning system of the Republic of Serbia, „Official Gazette RS“ No. 30/2018“.
- 93) The Law Ratifying the Revised European Social Charter, „Official Gazette RS – International agreements“, No. 42/09.
- 94) The Law Ratifying the International Convention on the Elimination of all Forms of Racial Discrimination, „Official Gazette SFRY“ No. 31/67.
- 95) The Law Ratifying the Convention on the Elimination of all Forms of Discrimination against Women, „Official Gazette SFRY – International agreements“, No. 11/81.
- 96) The Law Ratifying the International Covenant on Economic, Social and Cultural Rights, „Official Gazette SFRY“, No. 7/1971-88.
- 97) The Law Ratifying the UN Convention on the Rights of the Child, „Official Gazette SFRY - International agreements“, „ No. 15/90 and „Official Gazette SRY - International agreements“, „ No. 4/96 and 2/97.
- 98) The Law on the Equality of Sexes, „Official Gazette RS“ No. 104/2009.
- 99) The Law on Social Protection, „Official Gazette RS“ No. 24/2011.
- 100) The Law on Housing and Buildings' Maintenance, „Official Gazette RS“ No. 104/2016.
- 101) The Anti-Discrimination Law, „Official Gazette RS“ No. 22/2009.

- 102) The Law on Employment and Insurance in Case of Unemployment, „Official Gazette RS“ No. 36/2009, 88/2010, 38/2015, 113/2017 and 113/2017 - other laws.
- 103) The Law on the Protection of Rights and Freedoms of National Minorities, „Official Gazette SRY“, „ No. 11/2002, „Official Gazette of Serbia and Montenegro“, „ No. 1/2003 – Constitutional Charter and „Official Gazette RS“ No. 72/2009 - other laws, 97/2013 – decision of Constitutional Court and 47/2018).
- 104) The Law on Healthcare, „Official Gazette RS“ No. 25/2019.
- 105) Ombudsman, Motion for assessment of constitutionality and legality of Article 2, para 2. item 4) and 5), Article 4, para 1. item 1) and Article 9, para 1. item 3) of the Decree on social inclusion measures for users of monetary social benefit
- 106) Ombudsman, Opinion No. 40949 of 21.10.2016.
- 107) Ombudsman, Special report of the Ombudsman on implementation of the Strategy of social inclusion of Roma men and women, with recommendations, Belgrade 2019.

ANNEX – PROPOSED CHANGES AND AMENDMENTS TO THE REGULATORY FRAMEWORK OF THE REPUBLIC OF SERBIA

The Constitution of the Republic of Serbia

Article 69 - Social protection, para 1 an addition is made so that it reads:

„Citizens and families that require welfare for the purpose of overcoming social and existential difficulties and creating conditions to provide subsistence, shall have the right to social protection AND THE ADEQUATE STANDARD OF LIVING, the provision of which shall be based on social justice, humanity and respect of human dignity.“

A new article is added, which reads:

„Article 70 - Right to Housing

Everyone shall have the right to housing which shall imply the right to adequate housing accommodation for himself/herself and his/her family.

The Republic of Serbia and the local self-government shall provide the funding in their budgets to finance measures to ensure the exercise of the right to housing.

No-one shall be evicted or resettled from the housing accommodation unless another adequate housing accommodation is provided for himself/herself and his/her family.“

Article 71 - The right to education, para 2 is amended and now reads:

„Primary and secondary education is mandatory and free whereas secondary education is free.“

Article 190 – Competence of municipality, addition is made to para 1, item 4, and it reads:

„4. Be responsible for meeting the needs of citizens in the field of education, HOUSING, EMPLOYMENT, culture, healthcare and social welfare, child welfare, sports and physical culture;“

Article 190 - Competence of municipality, addition is made to para 3, and it reads:

„The municipality shall see to exercising, protection and improvement of human and minority rights AND GENDER EQUALITY, ANTI-DISCRIMINATION, as well as to public informing in the municipality.“

The Law on Local Self-Government

Article 20. Competence of municipality, addition is made to para 1, item 4, and it reads:

„4. Be responsible for meeting the needs of citizens in the field of HOUSING, EMPLOYMENT, education (pre-school upbringing and education and primary and secondary education), scientific-research and innovation activities, culture, healthcare and social welfare, child welfare, sports and physical culture;“

Article 20 - Competence of municipality, addition is made to para 1, item 10, and it reads:

improvement of human and minority rights, gender equality, ANTI-DISCRIMINATION, as well as to public informing in the municipality;“

Article 55 – a new para 4 is added and reads:

„In municipalities in which members of the Roma minority make up 1% or more of the total population, the municipal administration shall have a systematised post of coordinator for Roma issues.“

The ROMACTED Programme, “Promoting good governance and empowering Roma at local level” is a Joint Programme of the European Union and the Council of Europe.

The Programme is funded by the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) and implemented by the Roma and Travellers Team of the Council of Europe and the Office of the General Directorate of Programmes in Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia, Turkey, and Kosovo*.

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