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LAWS, POLICIES AND PRACTICES RELATED TO THE ROMA RETURNEES' INTEGRATION PROCEDURES INTO THE EDUCATION SYSTEM OF THE REPUBLIC OF SERBIA

Conducted by the Representative office
of the Roma Education Fund in Serbia in cooperation with
the German Development Bank KfW



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The Roma Education Fund, branch office in Serbia is implementing the project “Employment Empowerment of Young Roma”, with the support of German Financial Cooperation, implemented by KfW on behalf of the German Government – Ministry for Economic Cooperation and Development.



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Improving the position of returnees in the Republic of Serbia in the process of readmission and their successful integration into society is a complex process that requires a comprehensive approach to the realization of human rights of returnees in all vital aspects of protection. Considering the fact that the Roma population is a group that has been exposed to a special risk in the process of return, it is an indisputable obligation for the state to ensure the effective protection of human and minority rights in all spheres, including education. As members of the Roma national minority in the Republic of Serbia generally encounter problems related to poverty and discrimination, along with difficult exercising of rights in many spheres (such as documents, housing, social and health protection, education and employment), the achievement of an effective integration in the return process is difficult to realize without the effective policy and improvement of the legal, institutional and strategic framework for the protection of human and minority rights of returnees.

Republic of Serbia has assumed numerous obligations by ratifying international conventions and pacts in the sphere of international laws and human rights. Having in mind the indisputable interconnectedness and conditionality of human rights, the fulfillment of this obligation is not possible without the strategic and comprehensive approach to the solving of problems. Sustainable reintegration of returnees is also important from the aspect of prevention of poverty, prevention of secondary migrations, prevention of human trafficking, reduction of the unemployment rate, building of trust and interethnic tolerance.

The Agreement on the readmission of persons residing without authorization, which was signed between the Republic of Serbia and the European Union¹, was ratified in 2007 and came into

¹The Agreement on the readmission of persons residing without authorization between the Republic of Serbia and the European Community, Official Gazette of the Republic of Serbia, no. 103/2007

force on 1 January 2008. This Agreement regulates the return and admission of persons returning on the basis of the Agreement, and in accordance with this, the Government of the Republic of Serbia adopted the Strategy for the reintegration of returnees on the basis of the readmission agreement in 2009², which defines the institutional framework, measures, activities and institutions responsible for sustainable integration of returnees. The Action Plan was adopted the same year for the implementation of the strategy, after which the Action Plan for 2011 and 2012 was adopted, while in 2008 the Council for the Integration of Returnees was established as well as the Team for the monitoring of the implementation of the strategy.

Within the number of questions related to the successful implementation of the readmission process, the analysis of the legal and strategic framework, as well as practices of importance for the integration of the Roma returnees into the educational system of primary and secondary schools provides an overview of the legal framework of importance for this sphere. This includes the constitutional guarantees and relevant international documents, laws and bylaws, as well as a strategic framework in the sphere of readmission, and the rights of returnees and the improvement of the position of the Roma national minority. Main challenges in practice were also presented, which are indicated by the analysis and reports of the competent institutions, bodies and authorities, with the concluding considerations regarding the key obstacles in the process of integrating with the goal to point out the existing shortcomings and deficiencies in the process of integration of Roma returnees into educational system of primary and secondary schools, whether they are the consequence of deficiencies in the legal and institutional framework, inconsistent implementation of the existing legislation or other problems in practice.

² Official Gazette of the Republic of Serbia, no. 15/09

The active integration of returnees, in accordance with the Strategy for reintegration of returnees, implies “effective state policy with a goal of integration of returnees in an efficient, effective, sustainable and far-reaching manner into society, with full respect for their rights, as well as the active involvement of the returnees in the process of drafting and implementation of strategies, programs and measures through which such integration can be facilitated, as well as the strengthening of capacities in the course of this process”³.

During evaluation and assessment of problems in the successful implementation of the reintegration, several basic facts must be taken into consideration. First of all, a large number of returnees are being returned by force that many of them are members of national minorities, especially Roma. It is indisputable that the position of the Roma national minority is already marked by problems related to poverty and discrimination, which implies a difficult exercise of rights in many areas such as personal documents, housing, social and health protection, education and employment.

Bearing in mind that the Strategy for reintegration of returnees identifies Roma population as a group exposed to a special risk in the return process, the country has a significant obligation to provide protection for their human and minority rights in all areas, including the field of education, taking a particular care about the rights of children. This is also confirmed by the statistical data of the Readmission Office of the Republic of Serbia, so according to the report for 2017⁴, out of the total number of 1891 returnees, there are 1434 persons of Roma ethnicity, and 852 minors, while according to the report for 2018⁵ from the total number of 650 returnees in the first half of 2018, 462 were Roma nationals and 287 minors.

³ Strategy for reintegration of returnees based on the Agreement on readmission

⁴ Available at http://www.kirs.gov.rs/docs/read/Izvestaj_2017.pdf

⁵ Available at http://www.kirs.gov.rs/docs/read/Izvestaj_2018.pdf

Starting from the general goal of the Strategy for the Reintegration of Returnees, and that is the sustainable integration of returnees into the community with full respect for social and cultural differences, specific objectives have been developed such as establishing of an institutional framework and coordinating activities, and establishing a developed and functional mechanism for reintegration which includes strengthening the capacity of local self-governments to integrate returnees into the education system (such as the implementation of a program for learning the Serbian language and harmonization of the system for diploma nostrification, while identifying the possibility for returnees to be exempt from paying taxes).

It can be noted that, despite the significant improvement of the legal, strategic and institutional framework, some of the initial problems identified in the Strategy for reintegration of returnees have not been significantly overcome yet. This relates to the fact that the competent authorities are still not sufficiently familiar with the readmission process and organized to engage in the process of integration of returnees, the lack of timely informing returnees about their rights and obligations, and social, economic and legal support, as well as the problem of providing personal and school documents.

During the adoption of this Strategy, two basic problems were identified: the lack of knowledge of the language and nostrification of the documents required for enrollment in schools, which still represent a significant problem today. Problems in the process of integrating returnees into the education system, coupled with often expressed intolerance, stereotypes and discrimination, result in difficult enrollment and school achievements, as well as dropouts from the education system.

Numerous reports by the competent institutions, authorities and bodies shown in Chapter IV of this analysis indicate that despite the improved legal framework, further efforts are still required to improve the consistent application of regulations and to improve the degree of exercise of the rights of Roma returnees as a particularly vulnerable group and achievement of objectives foreseen by the Strategy, as well as other strategic documents. Some of

the main challenges continue to be the discrimination and segregation faced by Roma returnees, with shortcomings in terms of the general level of exercise of the rights guaranteed to members of the Roma national minority.

Although significant steps have been taken by improving the legal framework and adopting strategies in this sphere, it can be noted that there is still a lack of coordination between competent institutions in the practical application of legal provisions, the incompatibility of certain measures, and the problem of assessing the effectiveness of implemented measures due to data discrepancies, especially when it comes to Roma children. Given the general problems faced by Roma returnees regarding not only discrimination but also the exercise of rights in the field of employment and housing and other vital aspects of life, it is obvious that it is necessary to take additional measures in order to overcome the challenges and problems that continue to exist in practice.

This is indicated by numerous factors, such as the high rate of enrollment of Roma children in special schools, the existence of discriminatory procedures of school authorities, and insufficient information provided to pupils and parents, but also to teaching staff on the rights of returnees in the education system. Overcoming these challenges implies the adoption of bylaws that would enable the application of affirmative measures and recognition of discrimination and the prevention of segregation, further development and implementation of scholarship and mentoring programs, as well as the establishment of a monitoring and evaluation system, strengthening cooperation at the local level, and in particular developing a system support model for children and pupils returnees.

Other solutions of importance for the integration of returnees into primary and secondary schools also need to be improved, especially with regard to the application of the individual education plan and the position of pedagogical assistants, as well as the overcoming of language barriers and the problem of collecting documentation necessary for enrollment in schools.

1. CONSTITUTIONAL GUARANTEES

The basic rights of importance for the reintegration of returnees into the education system are guaranteed by **the Constitution of the Republic of Serbia**⁶, either directly through constitutional guarantees or through the direct application of human and minority rights, which are guaranteed by the generally accepted rules of international law, confirmed by international treaties and laws.

Taking into consideration the structure of returnees, it is of significance that the Constitution of the Republic of Serbia guarantees the protection of national minorities, and so the state has the obligation to protect the rights of national minorities and guarantee special protection to national minorities in order to achieve full equality and preservation of their identity (Article 14).

The Constitution prohibits discrimination, and it is specifically stipulated that discrimination shall not be considered to be special measures that the Republic of Serbia can introduce in order to achieve full equality of persons or groups of persons who are essentially in unequal position compared to other citizens (Article 21). With measures in the education the state encourages understanding, appreciation and respect for the differences that exist because of the special nature of ethnic, cultural, linguistic or religious identity of its citizens (Article 48).

The Constitution also contains guarantees for the rights of the child (Article 64), as well as the right to education, so everyone has the right to education, where primary education is compulsory and free, and secondary education is free (Article 71).

⁶Official Gazette of the Republic of Serbia, no. 98/2006

Members of national minorities, in addition to the rights conferred by the Constitution on all citizens, are also guaranteed additional, individual or collective rights (Article 75). Separately, specific regulations and provisional measures which the Republic of Serbia may introduce in economic, social, cultural and political life for the purpose of achieving full equality among members of a national minority and citizens who belong to the majority, shall not be considered discrimination if they are aimed at eliminating extremely unfavorable living conditions which particularly affect them (Article 76). Members of national minorities have the right, inter alia, to study in their own language in state institutions and institutions of autonomous provinces.

2. INTERNATIONAL DOCUMENTS

The Constitution shall guarantee, and as such, directly implement human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws, while provisions on human and minority rights shall be interpreted pursuant to valid international standards in human and minority rights, as well as the practice of international institutions which supervise their implementation (Article 18 of the Constitution of the Republic of Serbia).

At the level of the United Nations, key documents of relevance are certainly **the Universal Declaration of Human Rights** (1948), which set the foundations for the recognition of human rights and which stipulates that everyone has the right to education and that primary education is compulsory (Article 26), as well as **the International Covenant on Economic, Social and Cultural Rights**⁷ (1966), which recognizes the right of every person to education, while primary education must be compulsory and freely available to all, and secondary education in its various forms must be made general and accessible to everyone through all appropriate means (Article 13).

⁷ Official Gazette of the Socialist Federative Republic of Yugoslavia – International contracts, no. 7/1971

The International Convention on the Elimination of All Forms of Racial Discrimination⁸ (1965) stipulates that special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved (Article 1). The Convention obliges member states, when the circumstances so warrant, to undertake, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms (Article 2). States Parties also undertake to prohibit and to eliminate racial discrimination and to guarantee the right to equality with regard to enjoying, inter alia, the right to education and vocational training (Article 5).

Of particular importance is **the UN Convention on the Rights of the Child**⁹ which, in addition to other rights, provides for the right of the child to education, including primary education which is compulsory and free (Article 28). In the sphere of education, it is also important to mention **the Convention Against Discrimination in Education**¹⁰ which aims to combat discrimination in education and equal access to education, and to promote equal opportunities and procedures in education aimed at strengthening the respect of human rights and fundamental freedoms.

In addition to international contracts concluded under the auspices of the UN, the documents concluded at the level of the Council of Europe are also important, such as, first and foremost,

⁸ Official Gazette of the Socialist Federative Republic of Yugoslavia, no. 31/67

⁹ Official Gazette of the Socialist Federative Republic of Yugoslavia – International contracts, no. 15/90 and Official Gazette of the Federal Republic of Yugoslavia – International contracts, no. 4/96 and 2/97

¹⁰ Convention against Discrimination in Education, adopted at the 11th session of the UNESCO General Conference, on 14 December 1960, came into force on 22 May 1962, Official Gazette of the Federative People's Republic of Yugoslavia, no. 4/64

the European Convention for the Protection of Human Rights and Fundamental Freedoms¹¹ which guarantees the right to education (Article 2 of Protocol No. 1 and i.e. the Additional Protocol to the Convention) and the prohibition of discrimination (Article 14 of the Convention and Article 1 of the Protocol 12 to the Convention) and whose application, through the practice of the European Court of Human Rights, has significantly contributed to the fight against discrimination in the education of Roma.

The European Social Charter (Revised)¹², in the framework of the rights of children and youth to social, legal and economic protection (Article 17), provides that the contracting states are obliged to take appropriate and necessary measures aimed at, inter alia, for children and youth to receive education they need, as well as to provide children and youth free primary and secondary education, and to encourage regular school attendance.

The Framework Convention for the Protection of National Minorities¹³ provides for the obligation of the Parties to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority, and in this respect, they shall take due account of the specific conditions of the persons belonging to national minorities. The measures shall not be considered to be an act of discrimination (Article 4). The Parties also undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities (Article 12).

¹¹ Official Gazette of Serbia and Montenegro – International contracts, no. 9/03, 5/08 and 7/05 – correction, Official Gazette of the Republic of Serbia – International contracts, no. 12/2010

¹² Law on the Confirmation of the European Social Charter (Revised), Official Gazette of the Republic of Serbia – International contracts, no. 42/2009

¹³ Law on the Confirmation of the Framework Convention for the Protection of National Minorities, Official Gazette of the Federal Republic of Yugoslavia – International contracts, no. 6/98

3. LAWS

3.1. General importance laws

In addition to a set of laws in the field of education, there is also a large number of laws that establish the importance of the process of integration of returnees, especially Roma children, into the education system of Serbia. Some of the more important ones relate to the rights and freedoms of national minorities, affirmative measures and the field of protection against discrimination.

It is important to note that **the Law on the Protection of Rights and Freedoms of National Minorities**¹⁴ recognizes the status of Roma as the national minority and establishes the obligation of the authorities to pass regulations, individual legal acts and undertake measures in accordance with the Constitution and law, in order to ensure full and effective equality between members of national minorities and members of the majority population, especially for the purpose of improving the position of persons of the Roma national minority (Article 4). This law prohibits any form of discrimination against national minorities (Article 3). It is also prescribed that members of national minorities have the right to education in their own language or speech, in accordance with the law, while for the exercise of this right, a certain minimum number of pupils can be prescribed and that education in the language of a national minority does not exclude mandatory studying of Serbian language (Article 13).

The Law on State Administration¹⁵ defines affirmative measures, i.e. requires state administration bodies to provide, in accordance with the Constitution, laws and other acts the implementation of special measures in order to achieve full equality between persons or groups of persons who are essentially in unequal position with other citizens (Article 5a).

¹⁴Official Gazette of the Federal Republic of Yugoslavia, no. 11/2002, Official Gazette of Serbia and Montenegro, no. 1/2003 – Constitutional Charter, and Official Gazette of the Republic of Serbia, no. 72/2009 – other law, 97/2013 – Decision of the Constitutional Court, and 47/2018

¹⁵Official Gazette of the Republic of Serbia, no. 79/05, 101/07, 95/2010, 99/2014, 47/2018 and 30/2018 – other law

Of particular importance is **the Law on the Prohibition of Discrimination**¹⁶ which specifically prohibits discrimination against children (Article 22) and national minorities (Article 24), as well as discrimination in the field of education and vocational training (Article 19), so the law stipulates that everyone has the right to pre-school, primary, secondary and higher education and vocational training under equal conditions, in accordance with the law. It is forbidden to obstruct or prevent entry into an educational institution to an individual or a group of persons on the grounds of his/her or their personal characteristics, or to exclude them from these institutions, to obstruct or prevent their attendance of classes and participation in other educational activities, to categorize pupils on the basis of personal characteristics, to maltreat them and unwarrantedly differentiate among them in other ways, and to treat them in an unequal manner.

3.2. Education laws

The new Law on Foundations of Educational System¹⁷, which was adopted in 2017, stipulates that the right to education belongs to every person, and that citizens of the Republic of Serbia are equal in the exercise of this right. The system of education and upbringing is based on the *general principles* of education and upbringing (Article 7), with the aim of ensuring equality and access to the exercising of the right to education and upbringing based on social justice and the principle of equal opportunities without discrimination, and respect for the human rights and the rights of every child, student and adult and respecting human dignity. The process of education and upbringing must be tailored to the age and personal educational needs of each child, student and adult. In pursuing these principles, the law stresses the importance of cooperation with the family, local community and wider social environment, especially in achieving continuity in education and the ability of students from vulnerable groups to access all levels of education. In particular, the state's commitment to reducing the dropout rate from the education system of persons from socially

¹⁶ Official Gazette of the Republic of Serbia, no. 22/2009

¹⁷ Official Gazette of the Republic of Serbia, no. 88/2017 and 27/2018 – other law

vulnerable categories of the population and supporting their re-integration into the system is in accordance with the principles of inclusive and intercultural education and upbringing.

Regarding the *use of language* (Article 5), which is of special importance for the rights of Roma returnees, the law prescribes that educational work is carried out in the Serbian language and Cyrillic alphabet, and for the members of the national minority – in the language, that is, the speech and alphabet of the national minority. It is also stipulated that the educational work for the members of the national minority can be delivered bilingually (in the language and alphabet of the national minority and in the Serbian language), in accordance with a special law. Also, educational work may also be delivered in a foreign language or bilingually in a foreign language and in the Serbian language, or bilingually in a foreign language, in the language and alphabet of the national minority, in accordance with this and a special law. If education is acquired in the language of the national minority, foreign language or bilingually, learning of the Serbian language is mandatory.

With regard to the *enrollment of students* in primary school (Article 18), it is envisaged that a child older than seven and a half years who is not enrolled in the first grade due to illness or other reasons may be enrolled in the first or the appropriate grade on the basis of previous knowledge test, conducted by a team of class teachers, pedagogues and school psychologists, respecting the standards of achievement and evaluating the best interest of the child. When it comes to enrollment in secondary school (Article 19), exceptionally, certain persons or groups of persons may be enrolled into the secondary school under more favorable conditions so as to achieve full equality in education opportunities, in accordance with standards and pursuant to the procedure prescribed by the minister. A foreign national, a person without citizenship and the applicant for the citizenship shall be enrolled into the corresponding institution and shall be entitled to education under same conditions and in the same manner as prescribed by the law applicable to the citizens of the Republic of Serbia (Article 23), and in the case of expellees and internally displaced persons, refugees and migrants, and children and students who were returned to the country on the basis of a readmission agreement, who are

not familiar with the language in which instruction is delivered or certain program content of significance to the continuation of education, language learning classes, preparation for instruction or additional instruction classes, shall be organized according to special instructions prescribed by the minister.

Primary and secondary schools in addition to the envisaged school program can also provide *individual educational plans* for students and adults with developmental disabilities, as well as an individual program of the Serbian language, that is, the language of the national minority for students who are not familiar with the language in which the classes are delivered (Article 56). If due to social deprivation, developmental disabilities, disability, learning difficulties, early school dropout risks and other reasons there is a need for additional support, the institution ensures the removal of physical and communication barriers, adaptation of the manner of achieving a school curriculum, and the drafting, adoption and implementation of the individual educational plan (Article 76). The individual education plan (IEP) aims at the optimal development of students and the achievement of the outcomes of education and upbringing, and as a special act, it is drafted by the team for additional support on the basis of the previously achieved, registered and evaluated individualization measures and the pedagogical profile created, and is realized upon parental consent or another legal representative. IEP is adopted by the pedagogical board of the institution upon proposal of the team for inclusive education, that is, the team for providing additional support to a student in the school, which is comprised of the class teacher i.e, the subject teacher, homeroom teacher, expert associate, parent, or other legal representative, in accordance with the needs of the student and pedagogical assistant, or personal student's attendant, upon the proposal of the parents or other legal representatives. The implementation of the IEP is monitored by the Ministry, in accordance with the law, and a brief guide to the implementation of the IEP, its implementation and evaluation is passed by the Minister.

The law also envisages an *inter-sector commission* (Article 77), which assesses the needs of students for additional education, health and social support, which relates to the rights and services that ensure the overcoming of physical and social obstacles in or-

der to carry out daily life activities that are of importance for the inclusion in the educational process, community life and advancement. The inter-sector commission is formed by the body of the local self-government responsible for the social affairs, on the basis of cooperation agreements between the institutions of education, state administration and local self-government, social protection and health care. The Inter-sector commission collects and processes data on the student for whom the procedure was initiated for assessing the need for assistance and records in that database and reports to local self-government about its work and proposed additional support twice a year. Questions that regulate the assessment of the need for providing additional educational, health or social support to the child, student and adult, the composition and method of work of the inter-sector commission, are prescribed by mutual consent the minister in charge of health issues, the minister responsible for social policy issues and the minister responsible in charge of state administration and local self-government and the minister.

The law also envisages the *rights of the child and students* (Article 79), which include, among others, the right to quality educational and pedagogical work, respect of personality, protection against discrimination, timely and complete information on issues of importance for education, protection and fair treatment of the institution, as well as other rights in the field of education.

The work of the *pedagogical assistant* (Article 136) is also prescribed, which provides assistance and additional support to the group of children and students in the institution, in accordance with their needs and assistance to the employees in improving their work, while the minister shall prescribe more detailed conditions for the work of the pedagogical assistant.

The Law on Primary Education¹⁸ stipulates that primary education is realized in accordance with the Constitution, the law regulating the foundations of the system of education, confirmed by international conventions, charters, treatises and this law. Ev-

¹⁸ Official Gazette of the Republic of Serbia, no. 55/2013, 101/2017 and 27/2018 – other law

ery person has the right to free of charge and good quality primary education in a public school, and primary education and upbringing is mandatory. The primary task of the school is to enable good quality education and upbringing for every child and student, under equal conditions, regardless of where the school is located, i.e. where the education is taking place, and the persons who are conducting educational-upbringing work and other persons employed in the school will especially promote equality among all students and actively oppose all types of discrimination and violence (Article 9).

Educational work is implemented in Serbian *language*, while for members of ethnic minorities, the curriculum shall also be carried out in the language and alphabet of the national minority, i.e. bilingually, if at least 15 percent of the students elect this at the moment of enrollment in the first grade, but also for less than 15 students with the consent of the competent ministry (which the ministry gives according to the obtained opinion of the appropriate national council of the national minority). When the curriculum is implemented in the language and alphabet of a national minority, the school must organize Serbian language classes for the students. When the curriculum is implemented in Serbian language, for the students who belong to national minorities classes in languages of the national minorities with elements of national culture shall be organized as an elective course (Article 12). The school may also implement, among other things, the individual program of the Serbian language, that is, the language of the national minority for students who do not know the language in which the classes are conducted (Article 23).

The school shall adopt a development plan that includes measures to improve the availability of appropriate forms of support and reasonable adaptations and quality of education and upbringing for children and students requiring additional support, as well as measures to prevent student dropouts (Article 26). The *school program* includes, inter alia, a program of supplementary and additional education, while the individual educational plans for all students who are educated according to the individual education plan shall constitute appendix to the school program. Within the school program, for children and students who do not speak

Serbian language, the school may also implement a program for acquiring basic Serbian language skills (Article 27). For students who need assistance in mastering the program and learning, the school will organize additional classes, while for students with special needs and disability, specific learning disabilities, or who need additional support due to social deprivation and other reasons, the school may organize *individual teaching through support programs* (Article 32). For members of ethnic minority, the subject teaching may be organized in Serbian language and *language of the ethnic minority with elements of the national culture* from the first grade (Article 34).

Children from vulnerable social groups can be *enrolled* in a school without the evidence of permanent residence of parents and necessary documentation, with the evidence of health examination of a child. Testing of the child enrolled in school is carried out in the child's mother tongue or by the engagement of an interpreter at the proposal of the national council of a national minority. In the process of testing of the child, the school may determine the need for adoption of an individual educational plan or the need for providing of the additional support in education. If a child older than seven and a half years due to illness or other reasons is not enrolled in the first grade, it can be enrolled in the first or the appropriate grade, based on the previous knowledge examination, performed by a team comprised of the class teacher, pedagogue and school psychologist, supporting the standards of achievement and appreciating the best interests of the child (Article 55).

The law envisages *additional support in education* for students who, inter alia, because of social deprivation, learning difficulties, risk of early school dropout and other reasons, need additional support in education, and the school will thus ensure removal of physical and communication obstacles, adjustment of the manner of achieving a school curriculum and drafting, adoption and realization of an individual education plan. For implementation of additional support in education, the school director, teacher, professional associate, tutor, pedagogy assistant and parent, i.e. other legal guardian may obtain special professional assistance with respect to implementation of inclusive education (Article 64).

A citizen of the Republic of Serbia who has completed the school or individual school grades has the right to request *recognition of acquired foreign school documents*, as certificates of the acquired primary education, as well as a foreign citizen and a person without citizenship if he/she has a legal interest to do so. The recognition of a foreign school document shall mean that the foreign school document is deemed equal with the relevant public document acquired in the Republic of Serbia (Article 96). The law provides for the possibility that a student who submitted a request for recognition of a foreign school document may be *enrolled conditionally* in the following grade, if the procedure has not been completed by the beginning of the school year, in which case the school must immediately include the student in the appropriate grade (Article 98). A person who requires recognition of a foreign school document must, along with the request, provide the original of this document and the translation by certified translator.

In accordance with the **Law on Secondary Education**¹⁹, secondary education is implemented in accordance with the *goals*, such as respect for racial, national, cultural, linguistic, religious, gender, sex and age equality and tolerance and respecting differences (Article 2). Regarding the provisions on language (Article 5), the law stipulates that educational work is to be carried out in the Serbian language, while for members of the ethnic minority it is also be carried out in the language and alphabet of the national minority, or bilingually, if at least 15 students elect this at the moment of enrollment in the first grade, or for less, with the consent of the competent ministry and based on the opinion of the national council of the national minority. When the curriculum is implemented in the language and alphabet of a national minority, the school must organize Serbian language classes for the students. When the curriculum is implemented in Serbian language, for the students who belong to national minorities *classes in languages of the national minorities with elements of national culture* shall be organized as an elective course.

The school development plan must also include measures to improve the availability of appropriate forms of support and rea-

¹⁹ Official Gazette of the Republic of Serbia, no. 55/2013, 101/2017 and 27/2018 – other law

sonable adaptation and quality of education for students requiring additional support (Article 9). For students who need additional support, due to physical and mental disabilities, specific difficulties in learning, social deprivation and other reasons, the school shall provide elimination of physical and communication obstacles and depending on the needs, it shall adopt *individual educational plan*. For implementation of additional support in education, director, teacher, professional associate, tutor, pedagogical and andragogy assistant and parent, i.e. guardian, may obtain special professional assistance with respect to implementation of inclusive education, while for the purpose of achievement of additional support in education, the school shall implement cooperation with bodies of local self-government, as well as other organizations, and institutions on local level and beyond (Article 12). The school shall implement additional instruction for students who have difficulties in mastering the programs of individual subjects (Article 31).

A person who has completed primary education or one of the last two grades of primary education abroad, may *enroll* in the school if his/her foreign school document has been recognized (Article 33) and shall be enrolled in addition to the number of students determined for enrollment (Article 38). It is also foreseen that a student with specific difficulties in learning or language barriers shall take general graduation exam in conditions that provide overcoming of physical and communication obstacles, and may be exempted from taking a part of the graduation exam in subjects for which in the course of schooling the standards of achievement were adapted for him/her, or will take that part in accordance with individual educational plan, which will be decided by the team for inclusive education and team for providing additional support to students (Article 60).

Regarding the recognition of a *foreign school document*, the law stipulates that a citizen of the Republic of Serbia who has completed the secondary school or individual secondary school grades abroad, has the right to request recognition of acquired foreign school documents, as well as the foreign citizen and a person without citizenship, if he/she has the legal interest to do so. The recognition shall mean that the foreign school document is deemed equal with the relevant public document acquired in the Republic

of Serbia (Article 86). If it is determined, in the process of recognition, that the mastered foreign curriculum and program significantly deviate from the curriculum with the domestic one with which it is compared, the recognition shall be conditioned upon taking relevant examinations, preparing certain works or testing of knowledge (Article 87). A student whose right to have his/her foreign school document recognized is being deliberated may be enrolled conditionally in the following grade if the procedure has not been completed until the expiration of the school enrollment (Article 88). A student requesting recognition of a foreign school document must submit together with the request, the original of that document and translation by certified translator (Article 89).

4. BYLAWS

When it comes to protection against discrimination in education, **the Rulebook on close criteria for identifying forms of discrimination by an employee, child, student or third person in the educational Institution**²⁰ stipulates that discrimination within the realization of outcomes and standards of education exists, among other things, if for the student or group of students due to their personal status, it is not expected to reach the standards and outcomes of education and upbringing, and the criteria for them are unjustifiably and beforehand reduced; as well as if conditions are not provided to enable every child, and student, regardless of his/her personal characteristics, to meet the standards and outcomes of education and upbringing. Discrimination in exercising the right to primary and secondary education exists if the institution does not implement the prescribed measures in order to provide support for enrolling students from vulnerable social groups, and especially members of national minorities and particularly of Roma national minority; if, when enrolling student, it seeks documents that are not envisaged, or when it uses the lack of documents as a reason for excluding children and students, or if it fails to enable the use of a textbook in the language and alphabet of the national minority in accordance with the law. Discrimination in the field of language use exists if unjustifiably and contrary to

²⁰ Official Gazette of the Republic of Serbia, no. 22/16

the law members of the national minorities are prevented in educational work in the mother tongue or learning of the Serbian language as a non-native. Segregation is defined as particularly difficult case of discrimination.

The Rulebook on the criteria and procedure for enrolling students - members of the Roma national minority in secondary school under more favorable conditions for the purpose of achieving full equality²¹ has ceased to be valid after the adoption of a new **Rulebook on the enrollment of students in secondary school**²², which regulates among other things the enrollment of students - members of the Roma national minority in the school under more favorable conditions for the purpose of achieving full equality.

Special forms of education are regulated by **the Rulebook on additional educational, health and social support for the child and student**²³ which more closely regulates the requirements for the assessment of needs for providing additional educational, health and social support. The assessment must be based on a comprehensive and individualized approach, based on equal opportunities and consideration of the needs of the child and student, with the aim of enabling social inclusion (Article 1), while the additional support is provided without discrimination on any basis to the child from the socially sensitive groups who, because of social deprivation, physical and mental disabilities, learning disabilities and other reasons, needs additional support in education, health or social protection (Article 2). Support includes measures of direct additional support (among others: an individual education plan that involves adapting the standard of achievement in one or more subjects; engagement of a pedagogical assistant in educational work; overcoming the language barrier as a support to children whose mother tongue is not Serbian) and indirect additional support (among others: provision of food in school kitchens, free textbooks, provision of free legal assistance through the competent authorities of the local self-government) (Article 4). Assessment of

²¹Official Gazette of the Republic of Serbia, no. 12/16

²²Official Gazette of the Republic of Serbia, no. 23/18

²³Official Gazette of the Republic of Serbia, no. 63/2010

the needs of the child is carried out at the request of the parents, that is, the guardian and ex officio, while the request is sent to the Inter-sector Commission.

A special regulation of the individual education plan (IEP) is provided for by **the Rulebook on closer instructions for determining the right to an individual education plan, its implementation and evaluation**²⁴. Thus, the right to a IEP has a child and a student who needs additional support due to difficulties in accessing, involvement, participation or advancement, if such difficulties influence the achievement of general outcomes of education, and especially if the child, among other things, comes from or lives in a socially non-stimulating environment or for other reasons has the right to support in education (Article 2). IEP can be adopted for the whole or a segment in the subject, one subject, a group of subjects, or for the whole curriculum, and subjects for the grade that the student is attending (Article 5). The proposal for establishing the right to a IEP can be initiated by an expert team for inclusive education based on an assessment of the needs that can be provided by the teacher, an expert associate or a student's parent. IEP can be implemented according to the adjusted or changed curriculum (Article 7), and the support team includes the class teacher, that is, the subject teacher, homeroom teacher, expert associate, parent or guardian, in accordance with the needs of the child, and pedagogical assistant, and external expert, upon the proposal of the parents or guardian (Article 8).

²⁴ Official Gazette of the Republic of Serbia, no. 76/2010

1. REINTEGRATION OF THE RETURNEES IN THE PROCESS OF READMISSION

The **Agreement on the readmission of persons residing without authorization** was signed between the Republic of Serbia and the European Union²⁵, was concluded and ratified in 2007 and came into force on 1 January 2008. Based on this agreement, as well as bilateral agreements on the return of its citizens concluded by Serbia with a certain number of states, the **Strategy for the Reintegration of Returnees under the Readmission Agreement**²⁶ has been adopted defining the institutional framework, measures, activities and main actors for the sustainable integration of returnees. **Action Plan for the Implementation of the Strategy for Reintegration of Returnees** for 2009-2010 was adopted in April 2009, and the Action Plan for 2011 and 2012 was adopted in September 2011²⁷.

In accordance with the **Strategy for Reintegration of Returnees**, active reintegration of returnees implies an effective policy of the state with the aim of integrating returnees into an efficient, effective, sustainable and far-reaching way into society, with the full respect of their rights, as well as active involvement of returnees in the process of elaboration and implementation of strategies, programs and measures through which this integration will be facilitated, as well as strengthening of own capacities during this process. The Strategy identifies the problem of the lack of information provided to returnees about rights and obligations, and it stresses that a large number of returnees include national minorities, especially Roma. Therefore, special commitment is given to ensuring the protection of human and minority rights in all areas, including in the field of education.

²⁵ Official Gazette of the Republic of Serbia, no. 103/2007

²⁶ Official Gazette of the Republic of Serbia, no. 15/09

²⁷ Official Gazette of the Republic of Serbia, no. 74/2011

As a Roma minority encounters poverty, discrimination and difficulties in realization of their rights in all areas (personal documents, housing, social and health protection, education, employment, etc.), the Strategy identifies them as a group exposed to a special risk in the return process. The Strategy states that competent authorities are not sufficiently familiar with the readmission process and organized to engage in the process of integration of returnees in order to provide them with timely information on their rights and obligations, as well as social, economic and legal support, and as a special problem, the Strategy emphasizes the aspect of providing of personal documents.

In the field of education, the Strategy for the Integration of Returnees identifies two basic problems - the lack of knowledge of the language and the nostrification of the documents required for enrollment in schools, and bearing in mind that the children returnees are in most cases born abroad or have spent time there for a longer period of time, the lack or insufficient knowledge of the language appears as a problem. Problems that are noticed involve the lack of a language learning program before school enrolment or in the first year after their return, as well as programs for additional learning of Serbian language or continuing learning of the languages of the countries from which the returnees came. Another problem that is pointed out is the lack of personal documents that complicates the inclusion in the education system, which often involves the problem of nostrification of diplomas or school documents, which primarily relates to the costs of nostrification process (fees, translation of diplomas and certificates by a court translator).

The Strategy for reintegration of returnees as a general goal sets the sustainable integration of returnees into the community with a full respect for social and cultural diversity. The specific objectives include establishing of an institutional framework and coordination of activities; developed and implemented program for admission of returnees and the intervention support program as well as reintegration mechanism (creating conditions and providing support for strengthening the capacity of local self-government to include returnees into the education system and the sphere of work, which includes the implementation of the Serbian

language learning program and the harmonization of the diploma nostrification system, with finding the possibilities for returnees to be exempt from paying taxes).

The *Advisory Council for Reintegration of Returnees* is envisaged as a multidisciplinary body that proposes measures and activities aimed at admission of returnees, helps in identifying and implementing local self-government measures when providing assistance to returnees, and oversees the implementation process of the envisaged measures. The *Strategy Implementation Team* is a professional and coordinating body that should ensure the successful implementation of the strategic goals set forth in the Strategy for Reintegration of Returnees, team members are representatives of all relevant ministries and other bodies and organizations. Both bodies were formed in 2008. It is also envisaged that the Commissariat for Refugees and Migration of the Republic of Serbia plays a major role in the implementation of the Strategy, it coordinates and organizes the primary and urgent admission of returnees, and creates conditions for successful reintegration of returnees based on the Agreement on readmission and cooperates with local self-governments; participates in informing returnees, public, local and international organizations, creates a database, organizes trainings for relevant stakeholders working with this specific group of people; in addition, it is also responsible for carrying out all planned activities and monitoring this process from the operational angle.

2. EDUCATION, PROHIBITION OF DISCRIMINATION AND SOCIAL INCLUSION

Strategy for the Advancement of the Status of Roma of the Government of the Republic of Serbia²⁸, as a special area, emphasizes education and points to problems such as language barrier, sending Roma children to special schools and various forms of discrimination, while its application expired in 2015.

²⁸Official Gazette of the Republic of Serbia, no. 27/09

The Strategy for the Development of Education in Serbia by 2020²⁹ emphasizes, in particular, the objectives of the quality of education and the inclusion of the population at all levels of education, and in particular points to the low inclusion of Roma children in pre-school education. **The Action Plan for the Implementation of the Strategy for the Development of Education in Serbia until 2020**³⁰ sets as one of the goals in the primary education reduction in the drop-out rate of pupils during the primary education, with an expected outcome that includes publicly available reports on the elementary school drop-out rate, determined drop-out factors for pupils by categories of pupils for each municipality, reduced number of children who do not complete primary school, greater fairness in the coverage of children with elementary education; and for the secondary school, also a reduction in the early school dropout rate, with the aim of reducing the rate of early education drop-out and the determined drop-out factors per category for each municipality.

The Strategy for Prevention and Protection against Discrimination³¹ is the first state strategic document devoted to fighting discrimination, which provides for a system of measures and instruments of public policy aimed at preventing or reducing all forms and special cases of discrimination, in particular to certain individuals or groups of persons in view of their personal characteristics.

In October 2014, the Government of the Republic of Serbia adopted **the Action Plan for the Implementation of the Strategy for Prevention and Protection against Discrimination 2014-2018**³². In the area of education, the goal is to significantly reduce and eliminate discrimination cases in the education system and educate public sector employees, with the envisaged preparation and adoption of bylaws that would closely regulate the application of affirmative measures for enrollment of students from particularly vulnerable groups and ensure effective implementation, improving the equitability of the education system and establishing support measures for the education of vulnerable social groups.

²⁹ Official Gazette of the Republic of Serbia, no. 107/12

³⁰ Available at http://www.mpn.gov.rs/wp-content/uploads/2015/08/Akcioni_plan.pdf

³¹ Official Gazette of the Republic of Serbia, no. 60/2013

³² Available at http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/akcioni_plan_-_srpski.pdf

The Strategy for the Social Inclusion of Roma in the Republic of Serbia for the period 2016-2025³³ was adopted in 2016, and in 2017, **the Action Plan for Implementation of the Strategy**³⁴ was also adopted for the period 2017 to 2018. The strategy does not deal with readmission as a separate segment, aside from stating that certain results have been achieved over the past period regarding the permanent improvement of Roma position. Thus it is stated that the amendments to the Law on Non-Contentious Proceedings have allowed subsequent registration of the facts of birth of persons who are not registered in the birth register and the procedure for acquiring this right is prescribed; an increase in the coverage of Roma children in primary education and affirmative measures have been established during enrollment of Roma nationality pupils and students in secondary schools and faculties; and an access has been improved to the realization of certain rights because of the introduction of Roma representatives in the process of public policy making. Nevertheless, the main obstacles to social and economic integration of Roma have not been eliminated and there is no complete normative basis for implementing long-term measures of poverty reduction and achievement of the genuine equality of Roma citizens, which were the objectives of the previous Strategy for the Improvement of Roma Status 2009-2015.

That is why the main reason for the adoption of the new Strategy is to create conditions for their social inclusion - the reduction of poverty and the suppression of discrimination of Roma, i.e. the creation of conditions for full access to the human rights of Roma people.

The strategy emphasizes that, in addition to being one of the basic human rights, education is an indispensable prerequisite for the realization of many other human rights. The overall objective of the Strategy is to improve the socio-economic position of Roma national minority, with full respect of minority rights, and in the

³³ Official Gazette of the Republic of Serbia, no. 26/2016

³⁴ Available at http://www.Ijudskaprava.gov.rs/sites/default/files/dokument_file/akcioni_plan_za_primenu_strategije_za_socijalno_ukljufivanje_roma_i_romkinja_u_rs_2016-2025_za_period_od_2017._do_2018._godine.pdf

sphere of education, the specific goals are full inclusion of children in education.

The low coverage and the low completion rates in primary and secondary education are noticed, and despite the fact that pedagogical assistants are the most important measures of support to Roma children in their education, their status is still not clearly defined. It is therefore necessary to develop the procedures for monitoring the progress of children and to train the experts for their application. The basis of the inadequate use of measures of individualization of the individual educational programs (IEP) are also negative stereotypes towards children from the Roma community, but also the fact that the teaching staff is not prepared for individualized work and inclusive approach. Planned measures therefore imply advancement of measures for individualization of teaching as well as forms of educational support for Roma children returning to the Republic of Serbia under a readmission agreement.

It is also important to mention **the Action Plan for the Realization of the Rights of National Minorities**³⁵, which represents an integral part of the reporting on the implementation of the Action plan for the negotiation chapter 23, and which within the segment VI Education states that the availability of textbooks in the languages of national minorities represents an obstacle to education in the languages of national minorities, and as a fundamental problem, the insufficient implementation of regulations is underlined. The aim is to improve the position and to encourage the realization of the rights of minority community members in the field

³⁵ Available at <http://www.ljudskaprava.gov.rs/sh/node/21793>

Despite significant advances undertaken both at the legislative and institutional level, integration and inclusion into the education system remains one of the main obstacles on the path of full integration of Roma returnees into society and thus also in the education system, which has a significant impact on their position and reflects on the general position of members of the Roma national minority in the society. Among the main issues highlighted by numerous reports in this area, a need to improve the legal framework is stressed, as well as the lack of full implementation of the existing norms.

1. REPORTS OF INTERNATIONAL BODIES

The shortcomings in the application of the existing legal and strategic framework are indicated in **the Concluding remarks of the UN Human Rights Committee in connection with the Third Periodic Report on the Implementation of the International Covenant on Civil and Political Rights of 2017**³⁶. In the segment of social inclusion of Roma, the Committee expresses its concern over the fact that, despite significant steps taken by the state, members of the Roma community continue to be exposed to discrimination and exclusion, and that internally displaced Roma continue to face registration problems and impeded integration into society, with the recommendation for increasing efforts so the highlighted problems would be solved and consistent implementation of the Strategy for Social Inclusion of Roma provided.

In the field of discrimination and access to education, **the Report of the European Commission Against Racism and Intolerance (ECRI) of 2017**³⁷ in the segment of protection against Roma discrimination, states that progress was made in the period from

³⁶ Concluding remarks of the UN Human Rights Committee of 10 April, 2017, CCPR/C/SRB/C0/3

³⁷ The ECRI Final Report on Serbia adopted in March 2017, the Committee of Ministers of the Council of Europe, SM(2017)41-ad2

2010, especially in terms of the strategic framework and concrete steps undertaken to register Roma in birth registers and issuing personal documents, as well as establishing good practice for increasing the number of Roma children enrolled in school. Despite this, the Commission has identified deficiencies in the implementation of strategies and action plans, with data suggesting that only 6% of Roma children are enrolled in pre-schools, only 46% have completed primary school and only 13% have completed secondary education. In this regard, the report provides recommendations referring to a clear division of responsibilities and the allocation of financial resources and human resources to implement the Strategy for the Social Inclusion of Roma, increasing the number of children completing education, as well as gathering indicators and intensifying data collection on the integration process and achievement of equality.

The European Commission's 2018 Progress Report on Serbia³⁸ states that Roma are still a vulnerable group most exposed to discrimination. The Report points out that, in spite of the improved legal framework, it is necessary to enable more effective implementation of this Report and to improve the rights of vulnerable groups facing discrimination, to give priority to the rights of the child, to develop an adequate approach to the protection of national minorities through the implementation of an action plan for national minorities and ensure efficient implementation and monitoring of the strategy and action plan for Roma inclusion. With regard to the rights of children, the report specifically draws attention to the lack of adequate statistical data processing, especially when it comes to the Roma children. Progress has been made in the sphere of education, especially in the preparation and publication of books in the minority languages, although these preparations for the secondary schools have not yet started. As a positive step, the Report emphasizes the adoption of the Roma Social Inclusion Strategy 2016-2025 and the accompanying Action Plan, as well as the fact that, generally speaking, there is the benefit for Roma pupils from affirmative actions. Despite this, there are still obstacles and the lack of adequate support in education, especially

³⁸ "Serbia 2018 Report", European Commission, SWD(2018)152 final, Strasbourg, 17.4.2018

given that the dropout rate is still high, especially for girls, and that only 14% of young Roma finish secondary education, which is one of the lowest rates in the Western Balkans. The Report also points to the existence of the problem of segregation in education.

2. National reports and analysis of the situation

The Protector of Citizens of the Republic of Serbia (Ombudsman) also pointed in his reports to the deficiencies in the system of integration of returnees, above all in the special **Report of Protector of Citizen on the Implementation of the Strategy for the Improvement of the Roma Status with the Recommendations of 2013**³⁹, where it is stated that the measures adopted by the Strategy only partially contributed to the establishment of a normative basis for removing the consequences of the long-term unfavorable social position of Roma and that the achieved results did not remove obstacles to social-economic integration. In the sphere of education, the process of inclusion of Roma children into the education system was incomplete and the continuity in education was not ensured. It was also stated that there are no records on the number of Roma students and system of monitoring their success, no criteria have been established for the number and work of assistants for the support of the education of Roma pupils, with the conclusion that supporting inclusive education has not been achieved in the extent that ensures the full inclusion of Roma pupils. Problems in the process of reintegration of returnees on the basis of readmission agreements were also highlighted, such as the lack of preparatory programs and affirmative measures and the costs of translation and certification of documents, with the recommendation to establish criteria for the number of assistants for support and their work-employment status, support measures to families and measures for support to inclusive education.

In the **Regular Annual Report of the Protector of Citizens for 2016**⁴⁰, it is stated that there are still members of national minorities, especially Roma, among especially vulnerable groups.

³⁹ Available at

<https://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/3-115-2013-12-10-13-06-11>

⁴⁰ Available at <https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>

The Ombudsman points to the lack of mechanisms for preventive and timely action of competent authorities in order to prevent segregation in schools as a form of discrimination on a national basis, although the data indicate that the number of schools and classes consisted only of Roma pupils is increased; lack of bylaws to regulate the conditions for realization of bilingual classes, as well as new standards of achievement in teaching Serbian as a non-native language, when teaching is organized in the language of a national minority.

In the Regular Annual Report of the Protector of Citizens for 2017⁴¹, members of the Roma national minority are still designated as one of the most vulnerable groups, and the report indicates that the level of integration of members of national minorities is still far from satisfactory. A particular problem represents the breaking of deadlines for improving the legal regulations envisaged by the Action Plan, as well as failing to solve the problems related to the Strategy for the Social Inclusion of Roma. In the sphere of education, changes to the bylaws are recommended for the purpose of providing a sufficient number of professional associates, in line with the needs of pupils, especially in the implementation of inclusion and additional support in education.

The recommendations given in **the Regular Annual Report of the Commissioner for the Protection of Equality for 2017**⁴² include, inter alia, the need for greater availability of primary and secondary education for children from vulnerable social groups, particularly by undertaking affirmative measures targeted at Roma children with the aim of increasing the number of children enrolled and reducing the drop-out rate in the education system. In addition, it is particularly emphasized that it is necessary to undertake measures to ensure the engagement of a pedagogical assistant for students who need additional support in education, especially by stipulating closer conditions for the work of pedagogical assistants as soon as possible.

⁴¹ Available at <https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>

⁴² Available at <http://ravnopravnost.gov.rs/izvestaji/>

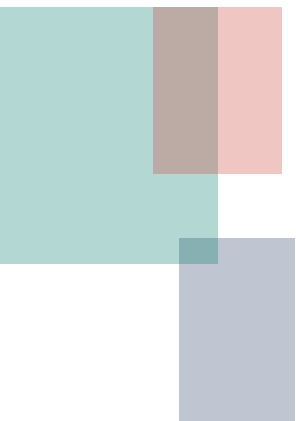
The Second National Report on Social Inclusion and the Reduction of Poverty in the Republic of Serbia⁴³ also points to significant problems with regard to the fairness of education, so there is still a significant number of children from marginalized groups who do not enroll or quit further education.

The Analysis of the Application of Affirmative Measures in the Sphere of Roma Education⁴⁴ points to the general problems of Roma pupils who for the reason of poverty interrupt their education, and during primary and secondary education are often found in adult education schools, as well as to the fact that the rate of enrolment of Roma children in special schools is 36 times higher than in other population groups. Similarly, these pupils are enrolled in the schools for students with disabilities for various unjustified reasons, from the lack of knowledge of the Serbian language to the discriminatory procedures of the school authorities. Despite the improvement of the legal framework and the adoption of strategies in this area, the lack of compliance with certain measures and the lack of coordination of the competent institutions in the practical application of the legal provisions is also noted. The problem has also been identified at the level of the assessment of the effectiveness of the measures taken, with the missing harmonization and systematization of data, regulation of the status of pedagogical assistants, the adoption of bylaws which would enable the application of affirmative measures, recognition of discrimination and the prevention of segregation. There is, therefore, a need for further development of scholarship and mentoring programs, setting up a system of monitoring and evaluation and developing a systemic support model for children and pupils returnees. Undertaken measures of affirmative action, particularly with regard to elementary school education, are difficult to estimate due to the lack of reliable data. Some legal provisions, such as IEPs, do not find the appropriate application in practice – drafting of the pedagogical profile preceded the IEP in a small number of schools, this right was determined for a small number of pupils, there is

⁴³ Available at <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2014/11/Drugi-nacionalni-izvestaj-o-socijalnom-ukljucivanju-i-smanjenju-siromastva-final.pdf>

⁴⁴ “*Analysis of the use of affirmative measures in the sphere of education of Roma*”, the Team for Social Inclusion and the Reduction of Poverty of the Government of the Republic of Serbia, 2016

the teacher's lack of interest and the discriminatory application of IEPs in a given number a school that is applied by automation (to every Roma pupil). With regard to pedagogical assistants, the systematized results of the various researches provided by this analysis point to the positive effects of assistants on the achievement of Roma students, as well as the problems with regard to the position of assistants themselves, as well as the ongoing problem of insufficient information provided to students and parents, as well as to the teachers about corresponding rights.



CONCLUDING CONSIDERATIONS VI

As highlighted in the Strategy for Social Inclusion of Roma in the Republic of Serbia from 2016 to 2025, the Roma population is still affected by poverty and social exclusion as well as discrimination in the areas of employment, education and housing, so it is obvious that the main obstacles to the social and economic integration of Roma have not been eliminated. Given the particularly sensitive position of Roma returnees and the importance of achieving their involvement in society, and therefore also in the education system, it is an indisputable duty and responsibility of all relevant stakeholders in the state to undertake further activities to provide returnees with conditions for full access to human rights. This can only be achieved by further advancement of legal and strategic framework, as well as the efforts to ensure a consistent and efficient implementation of the existing legal framework and to promote the work and cooperation of all competent authorities and bodies. Effective access to education and integration in the primary and secondary school education system is not only a fundamental human right, but is also a prerequisite for the realization of many other human and minority rights.

As large number of returnees includes members of the Roma national minority, it is certainly a prerequisite for achieving full integration into the education system in Serbia to solve the general problems faced by members of the Roma national minority. This refers to poverty, discrimination in many segments of inclusion into society, problems with personal documents, as well as a low level of acquired rights in the sphere of housing, employment, social and health care, as well as education. It is unquestionable that the problems in the field of education are related to the fundamental problems concerning the position of Roma in society and overall problems they face. Therefore, the objective in this area must be the availability of quality education and continuity in education, the development of tolerance and the nourishing of cultural identity. Even though a significant progress has been made at the legislative and institutional levels, the process of integration and inclusion of

Roma returnees into the education system remains far from the stated goals. The obstacles to the integration process in the education system of primary and secondary schools are numerous and require further advancement of the legal framework as well as the consistent implementation of existing norms in order to tackle problems such as discrimination in schools, difficulties in obtaining the required documents for enrollment in primary and secondary schools, language barriers for returnee children, and the lack of adequate individualization of measures of additional support in education.

One of the main obstacles in this process is certainly a lack of adequate and systematized data on the inclusion of Roma returnees in the education system. This, therefore, points to the need to improve the system of data collection and processing, as well as to the need to improve the monitoring and evaluation process - the data of the competent authorities and institutions are not sufficiently harmonized, as well as the procedure for assessing measures taken so far, which also indicates the lack of coordination of cooperation. Obviously, for a proper overview of problems in the sphere of integration of returnees into the education system of Serbia, it is necessary first to overcome this problem, as important one in the process of reducing inequalities in the education system. As has been stated, this problem is the result of a more general problem related to the state of the education situation and the lack of data on vulnerable groups, which certainly include pupils of Roma nationality and returnees, as well as the incompatibility of the data of competent bodies⁴⁵. Even though certain efforts are being invested in this segment, such as the Database for Monitoring Measures for Roma Inclusion of the Statistical Office of the Republic of Serbia⁴⁶, it is obvious that further steps are necessary in removing this barrier in undertaking adequate measures for improvement of the integration process. Without adequate data, it is neither possible to evaluate the success of measures which have been undertaken so far, nor to estimate the real dimension of the

⁴⁵ "Monitoring of the social inclusion in the Republic of Serbia", the Team for Social Inclusion and Reduction of Poverty of the Republic of Serbia, 2017, p. 37

⁴⁶ Available at <http://www.inkluzijaroma.stat.gov.rs/sr>

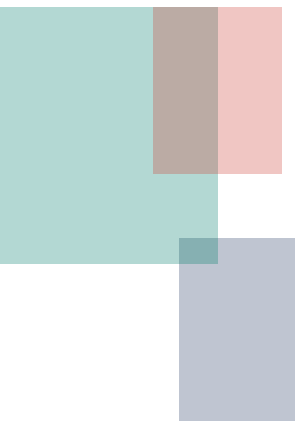
problem or to take further appropriate steps in advancing normative and institutional frameworks.

Even though it can be stated that legal regulations have been significantly improved, there is still a problem of untimely adoption of bylaws in this area, and a large number of provisions contained in different laws, bylaws and strategic documents impedes proper informing of on the rights and obligations of not only returnees, but also of the teaching staff. Without adequate information returnees are not in a position to take all the steps necessary to exercise their rights in the process of inclusion into the education system, in addition to the already existing barriers they face, such as the language barrier and the collection of the required documentation for enrollment in the school. On the other hand, the lack of information of employees in elementary and secondary schools further deepens the existing problems in the inconsistent implementation of existing laws and bylaws, and decisions which can significantly improve the position of children and students from the returnee population.

In addition to insufficient information, the practice also points to a number of other problems, some of which have been mentioned, such as language barrier and costs of translating the necessary documents. There are also obstructions in the application of an individual educational plan which is not applied adequately and where in many cases there is often lack of individualization, which also indicates the need for additional education of teachers. One of the obstacles is also the inadequately regulated position of pedagogical assistants, which are of great importance for the successful process of integration of returnee children into primary and secondary schools. It is therefore necessary to take further measures in this sphere, as well as in the aspect of adjusting measures and enhancing the coordination of competent institutions in the practical application of the legal provisions.

Bearing in mind that the Strategy for the Reintegration of Returnees identifies Roma as a group exposed to special risk in the process of return, it is an indisputable obligation of the state to ensure the effective protection of their human and minority rights in all areas, including the area of education. Taking into account

the general objective of this Strategy – sustainable integration of returnees into the community with full respect for social and cultural diversity, it is indisputable that additional efforts are needed to further improve the legal, strategic and institutional framework in order to establish a truly effective and functional mechanism for reintegrating and including returnees in the education system of primary and secondary schools in Serbia.



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