



REPORT BASED ON THE QUESTIONNAIRE
PREPARED BY THE SPECIAL RAPPORTEUR ON
THE RIGHT TO ADEQUATE HOUSING ON THE
OCCASION OF THE PREPARATION OF HER
FORTHCOMING REPORT TO THE GENERAL
ASSEMBLY ON THE ISSUE OF INFORMAL
SETTLEMENTS AND HUMAN RIGHTS

In Belgrade, May 2018

Introductory Notes about the Report and the Submitting Organization

[A 11 - Initiative for Economic and Social Rights](#) is non-profit, non-partisan and non-governmental organization which promotes and protects the rights of individuals from vulnerable, marginalized and discriminated groups, with a focus on economic and social rights. A 11 - Initiative for Economic and Social Rights documents, reports and litigates cases of human rights violations and monitors the implementation of public policies, national and international regulations and recommendations of UN Treaty and Charter-based bodies and advocates for the implementation of fundamental human rights. In its work, the Initiative is guided by principles of equality, dignity, solidarity, social justice and gender equality. A 11 Initiative is based in Belgrade, Serbia. E-mail: office@a11initiative.org

The present report is based on the information and experiences gained through the work of the A 11 Initiative (and its activists) related to the enjoyment of the right to adequate housing for the most vulnerable population in the Republic of Serbia. Most of the information is related to the ongoing housing crisis in Serbia¹ and the challenges Roma² face in enjoying the right to adequate housing, pursuant to the Article 11 of the International Covenant on Economic, Social and Cultural Rights.

General Characteristics of Informal Settlements in Serbia

According to the information based on the project for data collection on informal Roma settlements, there are 583 'substandard Roma settlements' in Serbia. Most of the population living in these settlements live in extreme poverty, socially excluded and discriminated, and their access to basic human rights is limited. This is the case not just for the right to adequate housing, but also for other human rights, from the right to social and health care, education, employment and access to personal documents³ to other interrelated and interdependent rights. Even though before 1999, there was a number of informal Roma settlements in Serbia, their number increased after the conflict and internal displacement of Roma from Kosovo. Lastly, some of the factors that caused the construction of these settlements are related to the migrations and more opportunities for income generation provided in large urban centres.

From the position of the local authorities, informal settlements are considered illegal and in cases where their evictions occur, the inhabitants are not provided with the procedural nor substantial protection of their right to adequate housing. This was particularly the case in the period from 2009 to 2012, when a number of large-scale forced evictions occurred in Belgrade.⁴ In some cases, shelters in these settlements

¹ OHCHR, *Serbia's housing crisis demands immediate action, says UN housing expert*, 26 May 2015, online, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16007&LangID=E>

² In the present Report, the term 'Roma' is used to encompass wide variety of different groups, mostly Roma and groups considered as Balkan Egyptians (Egyptians and Ashkali), as well as persons who identify themselves as Gypsies. Please note that this should be considered as an explanatory footnote, not a definition of Roma.

³ Most Roma lacking personal documents live in informal settlements.

⁴ According to some information, more than 3000 Roma men, women and children were affected by these forced evictions. Please see: Platform for the Right to Adequate Housing, *Identified cases of forced evictions in Serbia 2009 – 2014*, 28 August 2014.

were even considered as communal waste, providing even less protection in the procedure of the eviction. In cases where Roma were provided with alternative accommodation, this was the case only for those having registered residence in Belgrade. While people registered in Belgrade were provided with temporary accommodation in so-called container settlements⁵, those with the residence outside Belgrade were deported to their places of origin.⁶

According to the abovementioned methodology for data collection on number of informal settlements, the following set of criteria was used for the identification of 'substandard Roma settlements': a) Inadequate access to potable water; b) Inadequate access to sanitary and other infrastructure (sewers or septic tanks, public transport and traffic roads, water supply system, and other utilities); c) Poor quality of housing units (housing units built using inadequate building techniques and/or poor construction materials; housing units that are decrepit due to poor maintenance, and similar houses potentially hazardous to the security of its inhabitants); d) Overpopulation in terms of average density of population per unit area of the settlement, or in terms of a large number of persons per one household; and e) Uncertainty of the legal status of houses on plots (including unresolved property ownership rights over land and utilities in the settlement).⁷ However, there is no comprehensive statistical data that would encompass other forms of informal settlements or the settlements where other vulnerable groups live. Furthermore, homeless encampments, abandoned buildings or other types of informal housing were not included in the survey.⁸ It is estimated that the renting within informal Roma settlements is very low, even though there are no official surveys on this matter.

Having in mind the problems with the collection of reliable data and the absence of housing strategies, housing policies and programmes are not based on the actual needs of the population living in informal housing. In addition, it could be said that by failing to take into account housing needs of the most vulnerable population in Serbia – Roma, homeless persons, internally displaced persons, refugees or persons with disabilities, these policies and programmes contribute to the existing housing crisis. For example, with the Government's support, the Draft Law on Special Conditions for the Realization of the Project of Constructing Apartments for Members of Security Forces⁹ entered into the parliamentary procedure with the aim to provide affordable housing for members and former members of security forces. While many of them are not in a position to provide affordable housing for themselves, members of security forces are better off than the most Roma, internally displaced persons, refugees or persons with

⁵ Another type of informal settlements, set up and operated by the City of Belgrade. Usually, those settlements were at the outskirts of Belgrade, with 14.8 square meters of living space provided for 5-member family. Roma families in these settlements were provided with free electricity and water supply, and in most of the cases with the new furniture.

⁶ Amnesty International, Serbia, Submission to the UN Committee on Economic, Social and Cultural Rights, 52nd Session, May 2014, p.10

⁷ OSCE Mission to Serbia, *Mapping of substandard Roma settlements in GIS Project, General Characteristics of Substandard Roma Settlements in Serbia and a Proposal for Further Development Initiatives for the Improvement of the Living Conditions of the Roma Community*, March 2015, pp. 9, 16, online, available at <https://www.osce.org/serbia/159711?download=true>

⁸ According to the official 2011 Census, there are 445 primary homeless persons, while the number of secondary homeless persons in Serbia is 17 842. However, the Statistical Office of the Republic of Serbia notes that these numbers might be higher.

⁹ National Assembly of the Republic of Serbia, Laws in Procedure, online, available at http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/1179-18.pdf (Serbian only)

disabilities, and this project demonstrates the lack of sustainable and human rights-based housing provided for the most vulnerable population.

In addition to general data on substandard Roma settlements, it is found that 'of the total number of reported SRS settlements on the territory of the Republic of Serbia, in the majority (38%), houses are not connected to the water supply system. However, in 30% of these settlements, more than 70% of housing units are connected to the water supply system. In addition to this 30 %, in another 32% SRS (10% + 22%), a certain percentage of residents are able to use water directly from the tap in their houses'.¹⁰ In addition, in '74% of "substandard Roma settlements", the inhabitants do not have or cannot use the sewerage system directly in their homes, whether because it does not exist, or because it is being planned, in the design stage, or in the stage of construction'.¹¹

Another important aspect of the services provided for the population living in informal settlements is related to energy poverty and the lack of electricity in these settlements. It is reported that 68% of informal Roma settlements in Serbia are not connected to the electrical power system.¹² Due to that, during inclement weather, the most people living in informal settlements use wood-burning stoves or open fire to cook and heat their apartments. During this period of the year, the incidence of fires in informal settlements is significantly higher. Unfortunately, some of them are followed by deaths of children from these settlements. For example, in 2014, three children, aged 3, 5 and 9 died of the fire caused by the use of open fire used for heating.¹³ After being criminally charged, their mother was found guilty for the Grave Offence against General Safety but remitted from the punishment because the 'consequences of the offence affected the offender so strongly that imposing of penalty would obviously not serve the purpose of punishment'.¹⁴ In addition to the abovementioned hazards, there are other issues related to health or security concerns for the population living in informal settlements. For example, in some of the informal settlements, inhabitants are without electricity due to the fact that they cannot provide all the necessary technical requirements for the connection onto electrical supply system.¹⁵ Simply, because their houses are considered as illegal, they cannot legally use the electricity. In this situation, a number of them are forced to improvise and to connect illegally, risking their lives and the lives of other people living in these settlements. Another aspect relevant to the issues of environmental, health or security concerns is related to the locations where informal settlements are built. In some cases, these settlements are constructed close to landfills¹⁶, coal ash disposal sites,¹⁷ or in flood-prone areas.¹⁸

¹⁰ Supra note 3, p. 27.

¹¹ Ibid, p. 28.

¹² Ibid.

¹³ Daily Newspaper Novosti, *Vatra progutala troje mališana, deca vrištala: „Mama, umrećemo“!*, 26 September 2014, online, available at <http://www.novosti.rs/vesti/naslovna/hronika/aktuelno.291.html:511862-U-pozaru-u-Bloku-45-potpuno-izgorelo-troje-dece-ispod-10-godina> (Serbian only)

¹⁴ Article 58 of the Criminal Code of the Republic of Serbia.

¹⁵ For more information on this issue, please see: Praxis, Analysis of the Main Obstacles and Problems in Access of Roma to the Right to Adequate Housing, May 2013, pp. 86-87, online, available at http://www.praxis.org.rs/images/praxis_downloads/Report_right_to_adequate_housing.pdf

¹⁶ Informal Roma settlement close to Vinca landfill, where people working on the landfill live. Some 10 to 20 families live on this location.

¹⁷ Informal Roma settlement Kanal, Kostolac.

¹⁸ Informal Roma settlement in Mali Krivak, Smederevo.

Finally, in cases when Roma are provided with accommodation in social housing, the issue of its affordability plays a crucial role in their further marginalisation and violations of other human rights. For example, at least one-third of families provided with social housing in the biggest social housing scheme in Belgrade (Kamendin settlement) are faced with forced evictions due to their failure to pay the rent and other housing-related costs. In some cases, the families are receiving the bills that are even higher than their monthly income.¹⁹ In these cases, it is clear that the lack of affordability of social housing will push the vulnerable population to the informality of housing and new risks of forced evictions, discrimination or other violations of their human rights.

Plans, Goals and Regulations Adopted to Ensure That All Informal Settlements Will Be Upgraded by 2030

At the moment, the Republic of Serbia does not have the adopted public policy measures aimed to ensure that *all informal settlements will be upgraded by 2030*, in accordance to the standard of adequate housing. The approach towards issues related to the enjoyment of the right to adequate housing for the population living in informal settlements is rather piecemeal than systemic. While the Government of Serbia adopted the Strategy for the Social Inclusion of Roma in the Republic of Serbia 2016-2025²⁰ and the Action Plan for its implementation, the measures and the goals that are set are not dealing with the human rights-based approach to the upgrading of informal settlements. For example, these measures are related to the 'ensuring programme preconditions for the upgrading of informal Roma settlements',²¹ or 'ensuring information preconditions for the upgrading of informal Roma settlements', 'improvement of legal and strategy framework', etc. In most of the cases, these goals are neither followed with the clear sets of measures and responsible authorities, nor the funds earmarked for their implementation. Furthermore, in the preparation of these measures and the goals, the population living in informal settlements was not consulted. So far, informal Roma settlements were mostly upgraded as a result of specific projects implemented by non-governmental organizations in local communities. For example, a number of different non-governmental and donor organizations implemented projects that are aimed at the improvement of Roma housing in targeted local communities.²² Even though these projects improved living conditions in a number of informal Roma settlements, the overall conclusion is that the additional support for regularisation/legalisation of these endeavours should be adopted by the local authorities. To put it simply, in some cases these works are considered illegal, as they are done without construction permits.²³

¹⁹ Information from the interviews conducted on 9 May 2018.

²⁰ Government of the Republic of Serbia, Social Inclusion and Poverty Reduction Unit, *Roma Inclusion Strategy Adopted*, 5 March 2016, online, available at <http://socijalnoukljucivanje.gov.rs/en/roma-inclusion-strategy-adopted/>

²¹ Action Plan for the Implementation of the Strategy for the Social Inclusion of Roma in the Republic of Serbia 2016-2025, p. 25.

²² For a list of different activities and initiatives implemented in Serbia, please see: OSCE Mission to Serbia, *Housing Models for Substandard Roma Settlements Guidelines for Local Self-Governments, Civil Society Organizations and Roma Communities*, September 2014, pp. 17 – 54, online, available at <https://www.osce.org/serbia/126315?download=true>

²³ It should be noted that in cases where these initiatives are being done without construction permits, they are being tolerated by local authorities.

In addition to the lack of goals and timelines adopted to ensure that all informal settlements will be upgraded to meet the standard of adequate housing by 2030, the issue of laws and regulations aimed at upgrading of informal settlements is crucial for the States to meet the goals set in the 2030 Agenda. However, the Republic of Serbia does not have relevant laws or regulations that are aimed at the upgrading of these settlements. The only relevant piece of legislation is related to relocations of informal settlements, adopted in December 2016. The Law on Housing and Maintenance of Apartment Buildings²⁴ provides more procedural safeguards, but fails to address issues certain issues related to the security of tenure of persons living in informal settlements. For example, this Law fails to prescribe that relocations are being carried out only as a last resort when other alternatives are not possible. Also, this Law fails to guarantee genuine consultations with the affected communities or to ensure the security of tenure in alternative accommodation provided when the relocation is carried out. So far there were no cases of relocations carried out in accordance with the new Law on Housing and Maintenance of Apartment Buildings, and there is no relevant assessment of the effects of this legislation. However, the failure to address the issue of in situ upgrading will most likely affect the sustainable approach to the housing for people living in informal settlements and the results that could be achieved in that regard.

Finally, international development assistance received for projects and programmes related to informal settlements are still not being linked to the 2030 Agenda. Most of the support provided for programmes and projects related to informal settlements are related to relocations of informal settlements, and not to in situ upgrading or other forms of their support. The dominant model is mostly linked to the construction of the blocks or buildings for social housing where Roma and other vulnerable groups are provided with housing. In some cases, these programmes raised the issues of segregation, as they provide Roma-only housing, or concentrate Roma in one neighbourhood.

Conclusion

The abovementioned challenges related to the enjoyment of the right to adequate housing for the population living in informal settlements in the Republic of Serbia clearly demonstrate that the lack of human rights-based approach affects the position of people living in informal settlements, the enjoyment of their guaranteed rights, but also the enjoyment of other human rights. Commitments made in the 2030 Agenda and the New Urban Agenda could be met only with the strong commitment to the human rights provisions from the Article 11 of the International Covenant on Economic, Social and Cultural Rights.

²⁴ Official Gazette of the Republic of Serbia no. 104/2016.