*Right to development in Serbia, components of the discrimination and access to economic and social rights*

Esteemed Special Rapporteur, dear colleagues,

Thank you for the opportunity to present you the work of YUCOM and the situation in Serbia regarding the right to development.

Bearing in mind that Serbia signed Declaration on the right to development, I would focus my short presentation on general respect of provisions declared in Declaration with special attention on discrimination and economic and social rights.

Different organisations in Serbia are covering other layers of the right to development and this can be seen as an asset. Strong and focused civil society is one of the keys for the realization of this set of rights, being support to citizens in clarifying the right and the obligations that the country took over.

Lawyers’ Committee for Human Rights was founded in 1997 as an expert, voluntary, non-governmental organization whose members are legal experts engaged in promoting and advocating the idea of the rule of law and uphold of human rights. YUCOM is recognized as human rights defenders’ organization and one of only few organizations in Serbia providing free legal aid to citizens for more than 20 years now including bringing cases to UN the European Court for Human Rights.

1. **DISCRIMINATION**

* Since the establishment, YUCOM has been engaged with representing citizens in discrimination cases. This includes period before Serbia adopted the Law on discrimination, where on one hand we **advocated for the adoption of this law**, and on the other hand we were fighting discrimination **in front of the Court** by calling upon the antidiscrimination provisions stipulated in the Constitution and other relevant laws. Unfortunately, during that time, Courts didn’t recognize discrimination as an illegal act, even though Serbia ratified number of international human rights documents forbidding discrimination. Additionaly some of the strategic cases that YUCOM led before ECHR, such as V.A.M. vs Serbia, while representing we claimed that the discrimination on the ground of HIV status is present in the court case dealing with the custody on children after the divorce. However, Serbian judiciary was hiding evidence on that, so the ECHR could only determine other breaches of the rights, not the discrimination.
* After the adoption of the Law on discrimination, **YUCOM is bringing cases before the Court**. The adoption of this law was a positive step, but the lack of implementation is what presents a large struggle. As an example, the first YUCOM’s discrimination case after the Law was adopted, is still ongoing, this is 10th year since the lawsuit.
* 2012 – article 54a – hate crime, finally introduced, with 6 grounds for such attacks.
* In addition, the **lack of proper determination of discrimination victims** in law and in practice brings the uncertainty and the unawareness among general public of the discrimination grounds as well as personal characteristics that can be the reason for discrimination…
* The most discriminated persons in Serbia are the Roma minority, LGBTI persons, persons with disabilities and persons living with HIV/AIDS, as well as human rights defenders which often face hate speech and numerous threats.

1. **ECONOMIC AND SOCIAL RIGHTS**

* In Serbia we are facing several issues regarding economic and social rights and most of them are related to the problematic of solving **interdependent** **rights** which are often not visible as such. Having said that, complete fulfillment of human beings and peoples equality in their access to basic resources including education, health services, food, housing, employment and the fair distribution of income is strongly threatened especially with the most vulnerable groups, such as Roma.
* **Roma**, as economically and socially vulnerable citizens, are commonly exposed to violation of several rights by not being provided with essential personal documents. Without those documents they are **facing invisibility as citizens** which bring many additional legal problems. They are being unable to use their right to education, health, housing, employment etc. Particularly sensitive situation is regarding returnees, among which 82% are Roma minority, as they are not recognized as vulnerable group.
* **GRMEC** (Since the ratification of CESCR in 2001 Serbia has struggled to implement it’s provisions concerning the right to adequate housing due to the high number of refuges, internally displaced persons and other socially disadvantaged groups in need (such as Roma). While the Constitution of Serbia commits for direct application of ratified international treaties, the courts rarely use international standards in their adjudication. It was only in 2016. Serbia finally adopted the Law on housing and building maintenance harmonized with the CESCR. In the case of the attempted eviction of Roma families from the informal settlement in Grmeč in 2015, municipal government halted the eviction upon receiving the information YUCOM requested an interim measure from ECHR. This is the first case that international human rights standards have been used as the direct instructions for situations of forced evictions of informal Roma settlements. It is important to note that initially the municipal government gave Roma families one day notice to vacate the premises without offering them alternative housing, effectively making them homeless. While there are existing government programs directed towards providing adequate housing, they are insufficient for all of those in need. Furthermore some of those programs have serious shortcomings concerning affordability and YUCOM is providing free legal aid to a number of socially disadvantaged persons affected by the consequential termination of their lease contracts. YUCOM is also dealing with the issue of housing containers to which many of the Roma were resettled due to large infrastructure projects. These housing containers are located outside the city and provide inadequate space and substandard housing for multiple families which is the reason why YUCOM is soon filing an anti-discrimination lawsuit against the city government.)
* YUCOMs team is playing a big part in the area of the protection of persons with disabilities, in particular **persons** **deprived from legal capacity**. Since the moment of the deprivation from legal capacity, a person is deprived from any future as a human being, as it was impossible to regain legal capacity. Thanks to strong and persistent work of our team, currently several procedures in Serbia are going in a direction of questioning the possibility of regaining legal capacity to those who according to the medical documentation reached the needed level of medical condition. This means that the institute of deprivation of legal capacity is changing from being the irreversible to being protection period for those who are unable to protect their own rights.
* The assessment of constitutionality and legality of **Rulebook on the right to financial and social assistance** – The rulebook envisaged the obligation to work in the public interest as a condition for obtaining the right to social support in some of the cases. YUCOM claimed that the enforced labor is something that may be the consequence of such a government measure. Result of our activity is raising the public attention and as a consequence this measure was never implemented.
* **Internally displaced persons** **IDP** - the right to family invalidity allowance, the right to housing, family pension.

By these bullet points I would end this short presentation.

Concrete cases and the database that YUCOM keeps for more than 2000 beneficiaries of our free legal aid team per year gives additional impulse for the broadening of these activities, especially the advocacy for the law on free legal aid. Namely, Serbia still did not adopt this law, although drafted in 2015, depriving large percentage of population from the access to justice, as another component of the human wellbeing and right to development.

I would like to raise your attention to the last point of the uncapability of Serbian state to adopt the Free Legal Aid Law and I am sure that the Special Rapporteur will be the one closely working with civil society and that some of the issues we raise today will be further in your addressing.