

**SUBMISSION TO THE INDEPENDENT EXPERT ON FOREIGN
DEBT AND HUMAN RIGHTS MR JUAN PABLO BOHOSLAVSKY**

**THE IMPACT OF ECONOMIC REFORM POLICIES ON WOMEN'S
HUMAN RIGHTS**

Republic of Serbia

Submitted by

FEMPLATZ

and

A11* - INITIATIVE FOR ECONOMIC AND SOCIAL RIGHTS

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The submission on the impact of economic reform policies on women's human rights in Serbia is a joint document of two organizations from Serbia – Association of women FemPlatz and A11* - Initiative for Economic and Social Rights.

Association of women FemPlatz is a non-profit, non-partisan and non-governmental organization dedicated to protection from discrimination and full realization of human rights of women and girls, especially those exposed to inter-sectional and multiple forms of discrimination. FemPlatz contributes to creation of enabling environment for gender equality, inclusive growth, and social inclusion of women and girls by conducting independent research and policy impact analysis for improving legislation and practices and building capacities of stakeholders relevant for gender equality. Programs are planned and implemented by respecting principles of equality, independence and respect to personal autonomy, social inclusion and participation, and empowerment of women. FemPlatz is based in Pancevo, Serbia, email: femplatz@gmail.com.

A11* - 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. A11* - Initiative for Economic and Social Rights 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. Also, A11* Initiative documents, reports and litigates cases of human rights violations. In its work, the organization is guided by principles of equality, dignity, solidarity, social justice, inclusiveness and gender equality. A11* Initiative is based in Belgrade, Serbia. Email: office@a11initiative.org

I Economic reform measures which influenced fulfillment of economic and social rights

Since 2012, the Government of Serbia introduced a set of measures aimed at consolidating public finances and reducing budget deficit. However, in most of the cases, these measures were neither introduced after the public debate nor proportionate in their impact. On the contrary, the set of measures introduced by the Government of Serbia affected most underprivileged population – beneficiaries of social assistance, impoverished population, Roma, women, especially women coming from already socially excluded groups, etc. For example, the amendments to the Law on Personal Property Taxes introduced so-called

‘Poverty Tax’ – the tax that beneficiaries of social housing have to pay alongside their rent, utilities and other housing-related expenses.¹

According to the Ministry of Public Administration and Local Self-Government, from the time when the ban on new employment took effect (the end of 2013) until the end of 2016, the number of employees in indefinite employment in public administration and public utilities was reduced by 37,900.² These redundancies were not introduced after human rights impact assessment and affected also key services responsible for the protection from gender-based violence. For example, since the adoption of the Law on Social Protection in 2011, the number of beneficiaries of social services increased for 23% (135,492), while the number of professionals hired for indefinite period is constantly dropping for 6%.³ The overall assessment of the quality of services provided by social welfare institutions is concerning.⁴ Furthermore, some of these redundancies in public sector, affected mostly women working on lowest-paid positions, coming from the category hard-to-employ. In 2015, the Institute for Oncology and Radiology of Serbia decided to outsource cleaning and food serving services and lay off around 20 women that were not able to find employment after made redundant⁵.

These measures, alongside with the pensions-cuts⁶ and the lowering of public sector wages, were a part of the three-year loan deal with the International Monetary Fund, aimed at cutting public debt and budget deficit. Having in mind that the average pension in Serbia is approximately 190 EUR, and that these cuts affected all pensioners with the pension higher than 208 EUR, these measures had negative impact on pensioners’ standard of living.

II Lack of ex-ante gender impact assessment and consequences on women

Gender impact assessment has been defined as an ex ante evaluation, analysis or assessment of a law, policy or program that makes it possible to identify, in a preventative way, the likelihood of a given decision having negative consequences on equality between

¹ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on her mission to Serbia and Kosovo, 26 February 2016, para UN Doc No. A/HRC/31/54/Add.2, para 36.

² Ministry of Public Administration and Local Self-Government, 2016 Annual Report on Implementation of the Action Plan of the Public Administration Reform Strategy in the Republic of Serbia, 2015-2017, p. 8, available at: http://mduls.gov.rs/doc/Annual_AP2016%20eng%20novo.pdf

³ National Institute for Social Protection (‘Republički zavod za socijalnu zaštitu’), Report on the Activities of the Social Welfare Centres for 2016, Belgrade, July 2017, p. 10.

⁴ Ibid, p. 61.

⁵ Data provided by partner non-governmental organization

⁶ By introducing the Law on the temporary provisions for the administration of pension payments, that the

women and men.⁷ Although gender impact assessment of different measures, including economic reform measures and austerity measures, is extremely important for both women and men, there is a lack of such assessment in Serbia.⁸ The Republic of Serbia started fiscal consolidation and program of related structural reforms in October 2014, and adopted the Public Financial Management Reform Program 2016-2020 in 2015.⁹ The current Government intensified the implementation of structural reforms, broadening the focus to include social sector transformation and maintained the emphasis on reforming the state administration, public finances, and the economy, along with pursuing the EU accession process¹⁰.

As reported by the public authorities, structural reforms are successful¹¹, but it should be noted that many of adopted measures have detrimental consequences for women. Measures such as prohibition of employment in the public sector affect women more, especially multiply disadvantaged women (i.e. Roma women, women with disability, single mothers, rural women, etc) since they are less employed and less employable. On the other hand, measures such as reduction of salaries in the public sector also affect women more than men, since women are the majority of all employees in the public sector. According to the 2017 data from the Statistical Office of the Republic of Serbia more women are employed in public sector, e.g. there are almost 80% of women employed in social welfare centres, more than 70% in education, and approximately 70% in the judiciary¹². The employment rate of women is 38,1% compared to 52,8% of men, while inactivity rate of women is much higher (54,5 and 38,2% respectively).¹³ It is important to emphasise that the Republic of Serbia is the main employer, with the highest number of employees – almost 500,000¹⁴.

In 2015, the Law on determining the maximum number of employees in the public sector¹⁵ was adopted. The Commissioner for Protection of Equality and the Ombudsman submitted a

⁷ European Institute for Gender Equality - EIGE, Gender Mainstreaming, Toolkits, Gender Impact Assessment, available at: <http://eige.europa.eu/gender-mainstreaming/toolkits/gender-impact-assessment/what-gender-impact-assessment>

⁸The assessment involves a dual-pronged approach: the current gender-related position in relation to the policy under consideration, and the projected impacts on women and men once the policy has been implemented.

⁹ Report on Implementation of the Public Financial Management Reform Program 2016 – 2020 for the period December 2015 - June 2017, Ministry of Finance, available at: <http://www.mfin.gov.rs/UserFiles/File/strategije/PFM%20REPORT.pdf> Overall objective is to achieve a sustainable budget with a reduced debt to GDP ratio through stronger financial management and control and improvement of the audit control process

¹⁰ The World Bank in Serbia, Overview, available at: <http://www.worldbank.org/en/country/serbia/overview>

¹¹ Report on Implementation of the Public Financial Management Reform Program 2016 – 2020 for the period December 2015 - June 2017, Ministry of Finance

¹² Statistical Office of the Republic of Serbia, Women and men in the Republic of Serbia, Belgrade, 2017

¹³ Ibid.

¹⁴ See, for example: B92 (27 December 2016), So, we count them – there are 478,683 civil servants, available at: https://www.b92.net/biz/vesti/srbija.php?yyyy=2016&mm=12&dd=27&nav_id=1214695

¹⁵ “Official Gazette of the Republic of Serbia”, Nos. 68/2015 and 81/2016 – decision of the Constitutional Court

proposal for assessment of constitutionality of this law, stating that the application of the provision of the Article 20, employment will be terminated by force of law to all women employed in the public sector who, according to the regulations of the pension and disability insurance can use an old-age pension. In this way, the ability to choose whether women in the public sector will retire ceased to exist, that is, it automatically became an obligation, while it had no effect on male employees in the public sector¹⁶. The consequences for women employed in the public sector are a termination to the right to work while it has no influence on men¹⁷. The Constitutional Court urgently decided to suspend enforcement of an individual act or action taken based on the cited provisions, and later in 2016 the whole provision was abolished.

Austerity measures, reducing the costs of administration in private business and state sector, and inviting new investments are used by the Government as a pre-text for not adopting the new Law on gender equality, which would introduce affirmative measures for gender equality in commerce sector and employment opportunities and it would ease negative consequences of austerity measures on women's human rights.

Public sector lay-offs push women towards precarious employment with limited income security, uncertain social and health benefits, problematic working conditions, while work-life balance options are shrinking. Austerity measures and economic reforms that introduced cuts in social, health, educational sector also affected accessibility of important services and supports, which were felt by women the most. Unavailable and inaccessible (also unattainable in terms of financing) social and educational services put additional pressure on women's work-life balance, because besides everyday unpaid domestic work¹⁸, women take on additional care for family members because services fail to do so.

Small proportion of women who lost their jobs or have challenges in accessing jobs due to lay-offs in public sector and austerity measures ventured in entrepreneurship out of necessity¹⁹. There is still disproportionately small number of women entrepreneurs, namely every fifth entrepreneur is a woman, but 99% of them run micro-businesses in food, clothes, beauty services, 85% of women businesses are at the community/local level and it is assessed that majority of them are necessity entrepreneurs. As high as 85% of women entrepreneurs stated that formal education did not provide sufficient information on how to start or run a business, and majority of them had no information on other funding opportunities (loans, credits, microloans, investments) than to invest their own money.²⁰ Occasional governmental assistance measures to support women entrepreneurs do not have gender impact assessment although they are targeting women (e.g. criteria for financial assistance can include bonds, mortgage, bank vouchers which

¹⁶ Commissioner for the Protection of Equality, Regular Annual Report for 2015, Belgrade, 2016

¹⁷ Ibid.

¹⁸ Gender Equality Index in Serbia, Social Inclusion and Poverty Reduction Unit of the Government of Serbia, Belgrade 2016

¹⁹ Only 14% of women aged between 15 and 64 are self-employed, while majority of them are necessity entrepreneurs. Gender Equality Index in Serbia, Social Inclusion and Poverty Reduction Unit of the Government of Serbia, Belgrade, 2016

²⁰ Dr Babovic, M., Barriers and Potentials of Women Entrepreneurship in Serbia, Un Women, UNDP, Belgrade, 2012

only small proportion of women have access to)²¹. The situation of rural women is even worse, because only 16% of rural women own agricultural land, only 12% of owns a property, which puts them in economic dependence and lack of opportunities²².

III Lack of dialogue and transparency of economic reform policies

Gender budgeting is an application of gender mainstreaming in the budgetary process, and it means a gender-based assessment of budgets, incorporating a gender perspective at all levels of the budgetary process and restructuring revenues and expenditures to promote gender equality²³. Serbia has formally introduced Gender Responsive Budgeting with the adoption of the new Budget System Law in 2015, thus implying a gradual reform that is to be fully implemented by fiscal year 2020²⁴.

Budget System Law, Article 2, para 58v: Gender responsive budgeting entails gender mainstreaming of the budget process, including gender analysis of the budget and restructuring of income and expenditures to advance gender equality. Article 4: Budget system should achieve the following: 4) efficient allocation of budget resources with the objective of advancing gender equality.

Gender mainstreaming in the budgetary process has a transformational potential to reduce inequalities between women and men and remove barriers in equal access to public goods and services²⁵.

However, neither gender mainstreaming in the budgetary process, nor participation, transparency and proportionality of budget revenue and expenditure sides were ensured during the adoption of the 2018 Budget. The adoption of the Law on 2018 Budget was not followed by the public debate and the citizens were not aware of some of the novelties of this Law until it entered parliamentary procedure. Furthermore, the discussion in the Parliament was obstructed by the ruling coalition MPs that submitted hundreds of similar amendments aimed at spending the time allocated for the discussion.²⁶ When the discussion time was spent, these amendments were withdrawn and the Law on Budget

²¹ Ibid. Also look at subsidies programs by Developmental Agency of Serbia, <http://ras.gov.rs/kreiraj-zivot/projekti/podrska-preduzetnistvu>

²² Report on situation of rural women, Alternative report for the Committee on Elimination of all forms of Discrimination against Women in regard to fourth report cycle of the Republic of Serbia, Belgrade 2017

²³ Council of Europe, Gender budgeting, Final report of the Group of specialists on gender budgeting (EG-S-GB), Directorate General of Human Rights Strasbourg, 2005
http://www.mpsv.cz/files/clanky/12462/GenderBudgeting-report2005_En.pdf

²⁴ UN Women, Office in Serbia, GENDER RESPONSIVE BUDGETING, An emerging Serbian best practice in managing public finance reform for gender equality, 2008 – 2017, available at:
http://rs.one.un.org/content/dam/unct/serbia/docs/Publications/UNW_GRB_03%202017_ENG_digital_0030%20FINAL.pdf

²⁵ Ibid.

²⁶ According to the Arti 158 of the Rules of Procedure of the Parliament of Serbia, a total of 10 hours is allocated for the debate on amendments.

for 2018 was adopted in non-transparent procedure and without a single opposition parties amendment being discussed or adopted.²⁷

IV Lack of free legal aid

Having in mind that majority of austerity and other economic reform measures affect women more than men, one of the legal ways would be challenging laws, policies and other documents prescribing those measures. However, many women cannot afford a lawyer, while free legal aid is not regulated. According to the Constitution²⁸ “everyone shall be guaranteed right to legal assistance under conditions stipulated by the law. Legal assistance is provided by legal professionals, as an independent and autonomous service, and legal assistance offices established in the units of local self-government, while the law shall stipulate conditions for providing free legal assistance”. Although the Constitution was adopted in 2006, the law regulating free legal aid has not been adopted yet. Legal aid is provided through an incomplete and a fragmented network of services across the country, organized by the local self-governments. However, it covers only about one-third of the country's territory, and most citizens are not aware of the existence of any free legal services in their municipality.²⁹

V Conclusions

In its 2007 statement³⁰ the Committee on Economic, Social and Cultural Rights noted that in the case of the adoption of retrogressive steps, such as the abovementioned austerity measures, the burden of proof is on the State to demonstrate that such decisions were delivered after the most careful consideration.³¹

Furthermore, in the Letter to the State parties on issues related to the protection of the Covenant rights in the context of the economic and financial crisis³², the Committee Chairperson underlined that under the Covenant all States parties should avoid *at all*

²⁷ Balkan Insight, Serbian Ruling Coalition Accused of Stifling Budget Debate, 15 December 2017, available at: <http://www.balkaninsight.com/en/article/serbian-ruling-coalition-accused-of-parliament-obstruction-12-14-2017>

²⁸ The Constitution of the Republic of Serbia, “Official Gazette of the Republic of Serbia”, No. 98/2006, Article 67

²⁹ Functional analysis of the judiciary in Serbia, Multidonor Trust Fund for the Support to the Judiciary Sector in Serbia, 2014, p. 24.

³⁰ Committee on Economic, Social and Cultural Rights, An Evaluation of the Obligation to Take Steps to the “Maximum of Available Resources” under an Optional Protocol to the Covenant, Statement, 10 May 2007, UN Doc E/C.12/2007/1

³¹ Ibid, para 9.

³² AG Pillay, Chairperson of the Committee on Economic, Social and Cultural Rights, Letter dated 16 May 2012 addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights to States parties to the International Covenant on Economic, Social and Cultural Rights, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fSUS%2f6395&Lang=en

times taking decisions which *might* [emphasis added] lead to the denial or infringement of economic, social and cultural rights.³³ Finally, in 2016 Statement on Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights reiterated the aforementioned guidelines from the Letter and restated that States both as lenders of bilateral loans and members of international organizations providing financial assistance, should ensure that they do not impose obligations on borrowing States that would lead them to adopt retrogressive measures in violation of their obligations under the Covenant.³⁴ Finally, this Statement restated the obligation of States to *conduct human rights impact assessments prior to engaging with the lending or borrowing of funds from other States or international financial institutions*³⁵.

Having all the above mentioned in mind, the submitting organizations would like to emphasize the importance of the human rights impact assessment and to reiterate that this assessment should be introduced as a part of the procedure for passing the laws or adopting public policies, particularly in cases when these policies could have disproportionately negative effect on vulnerable population.

³³ Ibid, p. 1.

³⁴ Committee on Economic, Social and Cultural Rights, Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights, Statement, UN Doc E/C.12/2016/1, 22 July 2016, para 10.

³⁵ Ibid, para 11.