

 **REPUBLIC OF SERBIA**

SPECIAL REPORT OF THE PROTECTOR OF CITIZENS

ON THE EFFECTS OF COVID-19 PREVENTION AND CONTROL MEASURES ON CHILDREN’S RIGHTS

Protector of Citizens

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1. INTRODUCTION

The World Health Organization declared the pandemic of the COVID-19 infectious disease on 11 March 2020, and four days later, the Government of the Republic of Serbia imposed a state of emergency on the entire territory of the Republic of Serbia in order to prevent the spread of this contagious disease. The state of emergency lasted until 6 May 2020, when the Decision to lift the state of emergency was made[[1]](#footnote-1). The adopted acts of state bodies, primarily the Government of the Republic of Serbia, but also many ministries, significantly limited the basic human rights of citizens[[2]](#footnote-2). In such extraordinary circumstances, the situation of particularly vulnerable and socially excluded categories of the population has further deteriorated. Children also belong to this especially vulnerable category of the population.

Restrictions in the exercise of children's rights caused by the introduction of these measures during the state of emergency were the focus of the CRIA (Child Rights Impact Assessment) analysis conducted by the Protector of Citizens in 2021. During the state of emergency, the Protector of Citizens monitored the manner in which the measures taken influenced the exercise of children's rights, and at the same time, by performing activities within his competence, mitigated the negative consequences of the COVID-19 pandemic on children's rights in that period.

The analysis was conducted in order to map the impact of regulations and measures adopted during the pandemic of the COVID-19 infectious disease on the realization of children’s rights in the Republic of Serbia, in order to ensure better preparedness and ability to respond effectively to similar challenges in the future. The analysis of the actions of the supervised bodies during the pandemic should indicate those aspects of their work that need to be improved, as well as the need for the competent authorities to take greater responsibility in relation to the realization and protection of children's rights, especially in such special and extraordinary circumstances. Also, the analysis should contribute to the improved participation of children in consultative processes in the adoption of measures that affect the exercise of their rights.

The focus of the analysis was on the right of children to maintain personal relations with the parent with whom they do not live[[3]](#footnote-3) and the right of children to social welfare services – day care[[4]](#footnote-4). The reason for the analysis of these rights lies in the fact that during the state of emergency, and especially in the period when the ban on movement was in force, the Protector of Citizens was mostly addressed by parents of children who throughout that period could not exercise the right to maintain personal relations with a parent with whom they do not live, as well as by the parents of children with disabilities who could not use the social welfare service – day care.

1. METHODOLOGY OF DATA COLLECTION AND PROCESSING

The CRIA analysis was conducted in the period from May to October 2021 and was planned to include several segments: desk analysis of relevant documents (measures of the Government of the Republic of Serbia and competent authorities), an analysis of complaints sent to the Protector of Citizens in which parents complained about the impossibility of maintaining personal relations with children during the ban on movement, as well as the inability of children with disabilities to move, an analysis of existing reports and other available documents of state authorities, independent institutions and civil society organizations, interviews with children with disabilities who use the social welfare service – day care, a survey via a questionnaire for parents of children with disabilities who use the social protection service – day care and a survey via a questionnaire for employees in day care centres used by children with disabilities.

When it comes to the rights of children with disabilities to use social welfare service – day care, according to the criterion of equal regional representation, the analysis included day care centres in the following local self-government units: Zrenjanin, Subotica, Čačak, Zaječar, Aleksandrovac, Ivanjica and Belgrade (Zvečanska, Diljska, Šekspirova, Sunce). Research involved parents of children with disabilities who use the social welfare service – day care, as well as employees of day care centres whose services are used by children with disabilities in these local self-government units. Parents and employees filled out semi-structured questionnaires that were processed using statistical methods, comparative analysis methods and content analysis methods.

In accordance with the principle of participation[[5]](#footnote-5), as one of the four key principles of the United Nations Convention on the Rights of the Child, it was envisaged that children with disabilities would be interviewed and that their views and opinions on denial of rights during the state of emergency would be an integral part of the analysis. In order to ensure the participation of children with disabilities, a form with the necessary consent for participation was sent to their parents, but most parents stated that their children did not have the opportunity to express themselves verbally or otherwise. A number of parents replied that they did not agree with their children participating in *online* interviews and that this would be contrary to the principle of the best interests of the child. A number of parents were also contacted by telephone, but only one parent expressed readiness for his child to participate in the interview, not *online*, but live, which was not carried out given the current epidemiological situation.

The Youth Advisory Panel of the Protector of Citizens[[6]](#footnote-6) was consulted and involved in the report preparation process. Namely, seven members of the Panel gave feedback on the draft conclusions and recommendations. Questionnaires were completed by 31 employees of day care centres and 41 parents of children with disabilities who use the services of these centres.

1. THE CHILD’S RIGHT TO MAINTAIN PERSONAL RELATIONS WITH A PARENT WITH WHOM HE OR SHE DOES NOT LIVE

According to Article 61 of the Family Law[[7]](#footnote-7), a child has the right to maintain personal relations with a parent with whom he or she does not live. The right to maintain personal relations between the child and the parent is specific in that it is primarily the right of the child, but also the right of both parents, primarily parents who do not exercise parental rights. A parent who does not exercise parental rights has the right and duty to support the child, to maintain personal relations with the child and to decide on issues that significantly affect the child's life jointly and in agreement with the parent exercising parental rights. This right may be limited only by a court decision when it is in the best interests of the child or if there are reasons for the parent to be completely or partially deprived of parental rights or in case of domestic violence. In the context of the analysis and impact of state measures to prevent the spread of the COVID-19 infectious disease on the exercise of this right, it is clear that it could not be limited by any bylaw, or other act, action or measure of a state authority. In addition, Article 202 of the Constitution of the Republic of Serbia[[8]](#footnote-8) stipulates that even during a state of emergency or state of war, it is not permitted to restrict the rights of the child provided for in Article 64 of the Constitution.

Relevant regulations

During the state of emergency, several measures were taken that affected the realization of the child's right to maintain personal relations with a parent with whom he or she does not live. The *Order on Restriction and Prohibition of Movement of Persons on the Territory of the Republic of Serbia*[[9]](#footnote-9) prohibited all persons from leaving their apartments and premises in residential buildings and leaving their household (garden), from 5 pm to 5 am, except on Saturdays, when the ban lasted from 3 pm to 3 am and on Sundays, from 3 pm to 5 am. It was forbidden to visit all parks and public areas intended for recreation and sports, starting from 21 March 2020 at 8 p.m.

The mentioned measure especially affected children and parents. Namely, court decisions on the basis of which parents exercise the right to see their children regulate the right to contact between the child and the parent with whom he or she does not live, which most often occurs on weekends, but also during the week reserved for personal relations. Bearing in mind that the period for which the ban on movement was imposed included weekends, in that period, parents did not have permission to go and physically take over their children, which violated their right to maintain personal relations, which is an integral part of the child's right to respect for family life. When it comes to seeing children during the week, in light of the ban on movement, the parent had to return the child a few hours before the time provided for maintaining personal relations in order to be able to return to his or her place of residence before the start of the ban on movement. The problem was even more pronounced if the meeting place with the child and the parents' place of residence were far away from one another.

The procedure related to the application of deadlines in administrative procedures in conditions of a declared state of emergency is prescribed by *the Decree on the Application of Deadlines in Administrative Procedures during the State of Emergency*[[10]](#footnote-10), and its provisions refer to all possible procedures which parents could initiate before the Centre for Social Welfare in connection with the exercise of parental rights and the manner of maintaining personal relations with the child.

One of the most important acts that influenced the exercise of child’s rights, which are the focus of this report, was passed by the Ministry of Labour, Employment, Veteran and Social Affairs. It is the *Procedure for obtaining a movement permit during the ban on movement*, issued on 8 April 2020, which enabled deviations from the ban on movement and which clarified the procedure for submitting applications for the issuance of movement permits to certain categories of the population. This act enabled the issuance of movement permits during the ban on movement to parents with whom the child does not live, so that they could exercise their right to maintain personal relations with the child.

Actions of the Protector of Citizens

During the state of emergency and especially the period when the ban on movement was in force, the Protector of Citizens was approached by parents who were unable to maintain personal contact with their children due to the measure of ban on movement. These are parents who do not live with their children and who have the right to see them in accordance with the final court decisions, the centre for social work’s model of seeing children and the written and oral agreement of the parents. In their addresses to the Protector of Citizens, parents pointed out that children were denied the right to see them in situations when the ban on movement overlapped with the time set for the meeting.

At the very beginning of the state of emergency, it was unclear whether parents who have a final court decision or an agreement establishing the right to see a child would be able to exercise that right. Parents first turned to the centres for social work, which initially declared themselves incompetent, and later it was decided that the bodies of local self-government units were responsible for issuing permits for movement to parents, with prior consultation with the competent centre for social work. In the beginning, there were certain problems in communication and actions between the state bodies, but over time, and above all since the publication of the procedure of the Ministry of Labour, Employment, Veteran and Social Affairs, a unified practice has been established, as evidenced by a smaller number of complaints filed as the state of emergency progressed.

In order to solve this problem, the Protector of Citizens addressed the Ministry of Labour, Employment, Veteran and Social Affairs and the Ministry of Public Administration and Local Self-Government, pointing out the need to issue permits in the short term. Also, the Protector of Citizens informed the citizens about the procedure of the competent authorities regarding the issuance of movement permits, suggested parents to also submit a request in cases where they see children without a court decision, and on the basis of written or oral agreements with the other parent, since these agreements also regulate the manner of maintaining contacts between children and parents and they have the same effect as a court decision. In this way, parents who did not have a final court decision also achieved the right to obtain a movement permit to see their children.

The Protector of Citizens determined that some local self-government units, despite clear instructions from the Ministry of Labour, Employment, Veteran and Social Affairs, did not take into account parents' requests, referring to a certain Ministry Instruction sent to local self- government units, which stipulated that such requests should not be considered, about which many local self-governments informed the citizens on their websites. In this regard, the Protector of Citizens first reminded the local self-government units that it is not allowed to deviate from the constitutionally and legally guaranteed right of the child to maintain personal relations with a parent with whom he or she does not live, and then, in direct contact with representatives of the local self-government units, whose work the parents complained about, requested that the requests of parents for the issuance of movement permits be forwarded to the competent ministry without exception for approval. Also, the Protector of Citizens requested from the Ministry of Public Administration and Local Self-Government that movement permits be issued as soon as possible, if the required conditions are met.

Thanks to the intervention of the Protector of Citizens, parents who made contact with their children on the basis of a written agreement were able to enclose that document, along with the request for a permit, instead of a legally binding court decision, while in the case of an oral agreement, it was necessary to submit certified or just signed statements from the parents about the agreement to see the child. In that way, those parents who see their children on other grounds, and not on the basis of a final court decision were also enabled to realize this right.

Through his activities in this area, the Protector of Citizens contributed not only to the child's right to maintain personal relations with a parent with whom he or she does not live, but also to the right of a parent who does not exercise parental rights to maintain personal relations with a child. He also contributed to the improvement of internal procedures and regulations of the Ministry of Labour, Employment, Veteran and Social Affairs and the Ministry of Interior, Ministry of Public Administration and Local Self-Government, which enabled children to exercise this right even during the state of emergency.

During the state of emergency, 18 citizens (17 parents and one relative) addressed the Protector of Citizens due to problems in exercising the right to maintain personal relations with the child. In 11 cases (61.11%) the parents had a final court decision which was the basis for the right to contact with the child. In eight cases (44.4%) the permit was issued, while in five cases there is no further information on the outcome of the request. In four cases (22.2%) the permit was not issued, and in one case, seeing the child was made possible without issuing a permit. In eight cases in which a permit was issued, the average time from the moment of addressing the Protector of Citizens to obtaining a permit was 10 days, which indicates that the engagement of the Protector of Citizens contributed to children and parents exercising this right in a very short time. In only one case, the procedure lasted longer than 14 days, while in as many as three cases, the period was shorter than seven days. All addresses of citizens except one (during the Easter and May Day holidays) took place during March and April, when the state of emergency and the ban on movement were cumulatively in force and when due to pandemic, health measures and other dangers, it was not easy for citizens to exercise a large number of their rights.

In almost all cases, the Protector of Citizens was addressed by fathers who could not exercise their right to maintain personal relations with their children. In only two cases it was a woman – in one a mother and in the other a child's aunt. Half of the parents, i.e., nine of them, were from Belgrade, while the rest were from Čačak, Niš, Novi Sad, Vrbas, Užice, Kraljevo, Pančevo and Aleksinac.

1. THE RIGHT OF CHILDREN WITH DISABILITIES TO SOCIAL WELFARE SERVICE

– DAY CARE

Children with disabilities, as a particularly vulnerable category of children, belong to a broader vulnerable category of persons with disabilities. Persons with disabilities in the Republic of Serbia are at high risk of exclusion, poverty and discrimination in almost all areas of life, and such a situation puts them at a disadvantage and increases disenfranchisement during high-risk situations. Persons with disabilities, including children with disabilities, were first excluded from support measures, and after the Protector of Citizens pointed out their poor position, the Government of the Republic of Serbia approved the issuance of movement permits for children and adults with disabilities for an hour during the ban on movement and enabled providing movement permits to personal assistants or persons providing informal support. However, the impact of the measures taken was limited due to several aggravating factors: reduced employee capacities, delays in the adoption of measures, bureaucratization and the length of the process for obtaining a permit. All this led to additional exclusion of people with disabilities and children with developmental disorders.

According to Article 40 of the Law on Social Protection[[11]](#footnote-11), day care belongs to the group of social services – day care services in the community, in addition to help at home, shelters and other services that support the stay of beneficiaries in the family and immediate environment. Daily services in the community are provided by the local self-government unit. Day care is a social welfare service intended for children, youth and adults and it is the second most widespread in Serbia according to data published in the Mapping of social care services and material support under the jurisdiction of local self-government units in the Republic of Serbia[[12]](#footnote-12) for 2018, which speaks of its importance in the system of social welfare services. The day care service is provided to children and young people with physical disabilities, i.e., intellectual disabilities, who need daily care and supervision and support in maintaining and developing their potential in a way that does not interfere with their schooling. The total number of service beneficiaries in 2018 was 1,999 from a total of 64 local self-government units that provided this service. It is stated that less than half of local self-government units – 44.12% provide this service (64 out of 145). The number of beneficiaries under the age of 25 was 1,274 (64%). The day care service is mainly provided by the public sector (78%).[[13]](#footnote-13)

Relevant regulations

During the state of emergency, several measures and documents were adopted that referred to the position of children with disabilities. The President of the Republic of Serbia, the Prime Minister of the Republic of Serbia and the Speaker of the National Assembly of the Republic of Serbia passed a *Decision on the introduction of a state of* *emergency*[[14]](#footnote-14) which from 16 March 2020 completely suspended the work of preschool, school and higher education institutions until further notice.

*The Decree on State Emergency Measures*[[15]](#footnote-15) has been amended on 14 April 2020, so that children with disabilities and autism were allowed to move during the ban, exclusively when accompanied by one adult (one parent or guardian) up to 200 meters away from the place of residence or stay. With his actions, the Protector of Citizens contributed to the changes in the legal framework that enabled children with disabilities to leave home despite the ban on movement, after numerous addresses by parents of children with autism. The measure of the ban on movement disrupted the daily routine of children with autism who have a pronounced need to move and go out during the day. The fact that they were not able to go out to nature and walk, come to kindergartens and day care centres, to classes with speech therapists and special educators and other specialist treatments and controls, as well as to sports trainings, led to harmful consequences for the welfare of children and to endangering their best interest. By adopting these measures, the competent authorities did not particularly assess the consequences they may have on children with disabilities.

The mentioned amendment to the Decree marked a major step forward in enabling people with disabilities, including children with developmental disorders, not to be additionally locked up and socially excluded. Based on the Decree on the organization of work of employers during the state of emergency, and based on the measures to prevent the spread of the COVID-19 infectious disease, the Ministry of Public Administration and Local Self-Government issued a *Recommendation for organizing work in public administrations and state institutions*. Having in mind the competence of this body, the recommendation primarily referred to employees in state authorities, public agencies, public services and local self-government units, and it also applied to employers in the private sector if the employer's activity allowed it. In cases where due to the activity and nature of work it was not possible to organize work from home (both in the public and private sectors), the employer was obliged to provide measures for the protection and health of employees, as well as to organize work in shifts in order for the smallest possible number of employees and all other employed persons to work at the same time in one room. Employers were also advised to allow one parent with a child under 12 to work from home, and if due to the activity and nature of work it was not possible to organize work from home, it was necessary to organize work in shifts so that the work schedule of the employed parent does not match the work schedule of the other parent who also has a work obligation.

In this way, the possibility of working from home made it easier for employed parents of children with disabilities to provide care for their children on their own, while the day care facilities for these children were closed. On the other hand, there was no other form of support and assistance to these parents who at the same time worked from the family home and took care of their children with developmental disabilities.

With the *Instructions for the application of measures in day care institutions for children and youth with disabilities*[[16]](#footnote-16), opening of these facilities in the city of Belgrade was planned in phases, provided that the parents/legal representatives of the service beneficiaries in the first phase were obliged to submit a certificate from the employer proving that they perform work at the headquarters or at other business and organizational units of the employer.

By *Letter from the City Institute for Public Health in Belgrade, dated 6 May 2020, to the Secretariat for Social and Child Protection*, the day care centres started working in the first phase on 1 June 2020. In the second phase, during July and August, a plan of measures for the actions of the institution was made, based on which this service was provided to beneficiaries who have single parents and parents over the age of 65, while in the third phase in September 2020, all beneficiaries were admitted.

*By the decision of the City of Belgrade dated 29 May 2020 on the re-establishment of the social welfare service – day care in the facilities of the Centre for Accommodation and Day Care of Children and Youth with Developmental Disabilities in the City of Belgrade dated 1 June 2020*, the day care service was gradually established and children with disabilities, as well as their parents, were able to use it again.

Actions of the Protector of Citizens

Since the introduction of the state of emergency and the ban on movement, the Protector of Citizens has been approached by parents of children with disabilities, as well as associations dealing with the protection of the rights of children with disabilities, pointing out that the imposed measures violated the rights of this group of children. Namely, the parents stated that the ban on movement had a negative impact on their children, and that the closing of day care centres, whose services they used, made it impossible for them to carry out daily routines that are very important to them. Regarding these addresses, the Protector of Citizens launched investigations against the competent authorities, to establish all relevant facts.

Main research findings

One of the most important sources of data were the data obtained from the actors concerned by the day care social welfare service, primarily parents of children with developmental disabilities, but also employees of day care centres who work directly with children with developmental disabilities and provide this service. Parents and employees actively participated in the research, while the participation of children was absent due to the aforementioned reasons.

*Data obtained from the questionnaire for employees in day care centres*

The questionnaire was completed by 31 employees in day care centres whose services are used by children with disabilities. Day care centres from the following cities and municipalities participated in the research: Zrenjanin, Subotica, Čačak, Zaječar, Aleksandrovac, Ivanjica and Belgrade (Zvečanska, Diljska, Šekspirova, Sunce). The questionnaire itself was open-ended and contained relevant questions that respondents could answer. This section summarizes the key findings of the analysis of data obtained from the questionnaire.

* Regarding the type of impact of measures restricting movement during the state of emergency on the welfare and rights of children with disabilities, the majority of employees (87%) assessed this impact as extremely negative. As a positive impact of this measure, it was stated that children with disabilities were protected from infection.
* Restrictions on movement during the state of emergency particularly affected the exercise of the following rights of children with disabilities: the right to play and socialize with peers, right to medical care (psychosocial treatments), the right to social inclusion and the right to be included in the community.
* Regarding the possibility for parents, who had a work obligation during the state of emergency, to leave their children in day care centres or some other alternative form of accommodation for children with disabilities, there is a division in the answers of employees. Slightly more than half of the employees, 17 respondents (54.8%) stated that this was not possible, four (12.9%) stated that it was, while 10 employees (32.2%) stated that it was not possible in the first month, and that it was possible after the ban was lifted.
* All respondents stated that the measure of prohibition and restriction of movement had a negative impact on access to the day care service for children with disabilities, since it meant closing the day care centre, and two respondents pointed out that public transport did not work, which made it impossible to use the day care service.
* Most respondents believed that there was no possibility to modify the measure prohibiting movement or to take other measures, and to mitigate the impact of these measures on the welfare of children and children's rights. Those who assessed that this was possible cite the following measures: possibility of obtaining a movement permit earlier, reduced working hours of the day care, smaller groups of children in the day care.
* The vast majority of employees in the day care (71%) believe that the measure of restriction of movement has not had any form of positive impact on any rights of children with disabilities. Five of them (16.1%) stated that the positive impact was protection against the virus, while two (6.4%) assessed that the positive impact was that children with disabilities spent more time with their families. No employee stated that the ban on movement had any positive impact on the exercise of the right of children with disabilities to use the day care service.
* When it comes to the medium-term and long-term impact of the ban on movement on children and children's rights in general, employees believe that there is no long-term impact, except for one employee who states that long-term impact is asociality of children with disabilities. However, when looking at the answers of employees regarding the medium-term impact, they in a certain percentage (32.3%) explicitly state that the impact on children's rights is very bad and state a lack of socialization.
* However, when it comes to the medium-term and long-term impact of the ban on movement on children with disabilities, there are different answers in relation to children as a category in general. Employees point out that the consequences of these measures are the withdrawal of children with disabilities and the loss of the achieved level of abilities, while some cite the complete deprivation of possibility of living in the day care centre for children with disabilities as a consequence.
* Most employees, i.e., 21 of them (67.7%), believe that there is no additional concern about the COVID-19 pandemic in Serbia regarding the impact of potential measures on the rights of children with disabilities in the future, while 10 of them (32.3%) believe that there are concerns.
* The majority of respondents, i.e., 20 of them (64.5%), believe that after the lifting of the state of emergency there were no negative impacts on the right to use the service in the day care centre for children with disabilities. Seven respondents (22.6%) who stated that there are negative impacts even after the lifting of the state of emergency, pointed out the following: some day care centres did not open even after the lifting of the state of emergency, children did not come every day, work took place in small groups, it was necessary to re-accustom children with disabilities to the conditions in day care centres.
* Most employees, i.e., 24 of them (77.4%), believe that in the future, positive impacts of measures adopted during and after the lifting of the state of emergency on the right of children with disabilities to use the day care service cannot be expected. Only two employees reported positive impacts in terms of improving the organizational structure of day care centres.
* All employees believe that the measure of the ban on movement during the state of emergency had a negative impact on the parents of children with disabilities, since the parents were not used to being with their children all day, and they had to reorganize, especially at work. They were worried for the psychological condition of their children, and their position was additionally difficult because they had to take care of the children throughout the day.
* A certain number of employees in day care centres, i.e., 21 of them (67.7%), believe that it was not possible to achieve the same effect with another measure/measures in relation to the parents of children with disabilities. Three of them (9.7%) pointed out that this would have been possible if the day care centres had not been closed.
* Work in small groups, the operation of day care centres in two shifts or the openness of day care centres during the state of emergency are measures for which employees say could have prevented the right of children with disabilities to accommodation in the day care centre to be limited in the manner in which it was limited by the measure of prohibition of movement.
* Eighteen employees (58%) pointed out that after the lifting of the state of emergency, there was no impact of some measures on the right of children with disabilities to use the day are service. Some employees point out that the centres are still not working, while some are working, but the services provided by those day care centres are limited.
* Regarding the activities of state authorities that could eliminate the negative impact of the ban on movement during and after the lifting of the state of emergency, employees believe that this could have been achieved through psychological and therapeutic online workshops (three respondents), with the mediation of special educators and therapists on Viber groups (two respondents), by individual visits to beneficiaries (three respondents), and after the lifting of the state of emergency, by opening new day care centres by the Ministry of Labour, Employment, Veteran and Social Affairs.
* When asked how the greater application of the principle of participation of children with disabilities can contribute to improving the right of children to accommodation in the day care after the termination of the ban on movement, the majority of employees (93.5%) did not specify any ways, while two stated that this is possible with the help of the local community and the participation of local self-government units.

*Data obtained from the questionnaire for parents of children with disabilities*

The questionnaire was filled out by 41 parents of children with disabilities who use the social welfare service – day care in the above-mentioned day care centres. The questionnaire itself was open-ended and contained relevant questions that respondents could answer. This section summarizes the key findings of the analysis of data obtained from the questionnaire.

* Only three parents (7.32%) stated that the measure of restriction of movement during the state of emergency had a positive impact on the welfare and rights of their child. Parents pointed out as negative impacts that the children were nervous, in a bad mood, they missed their friends, showed confusion, fear, aggression and anxiety. The impacts of the measure were that there was a change in their daily rhythm, a lack of communication, nervousness and tension, withdrawal, and one parent stated that the child gained significant weight due to the lack of movement.
* When asked whether the restriction of movement affected a particular right of their child, 22 parents (53.7%) answered no, while 17 parents (41.5%) stated that the restriction of movement affected the following rights: the right to medical treatment (six), the right to day care social service (two), the right to freedom of movement (seven) and the right to health (two).
* The majority of parents, i.e., 35 of them (85.4%), pointed out that during the state of emergency there was no possibility for their child to be taken care of in any other form of residence other than the day care, five parents (12.2%) stated that there was no need for that, while only one parent stated that such a possibility existed.
* During the state of emergency, 20 parents (48.8%) stated that they did not have the obligation to go to work (work obligation), 11 of them did (26.8%), while three parents (7.3%) stated that they performed work from home. Seven parents did not work because they were retired.
* Asked whether it was possible for parents to leave their children in day care or some other alternative form of residence, one of the parents who had a work obligation during the state of emergency answered that he had resigned from his job in order to be with his child, which is an extremely bad practice. The vast majority of parents (30) stated that this was not possible, six that it was possible, and two parents that it was possible only later.
* All parents who are employed and who had a work obligation during the state of emergency pointed out that the employers did not have any proposal or alternative way for them to have their children with disabilities taken care of while they are at work.
* 20 parents (48.8%) stated that the measure of prohibition and restriction of movement had a negative impact on the right of their child to accommodation in the day care, while 15 of them (36.5%) believe that the restriction of movement did not have such an impact.
* Most parents stated that the measure of restriction of movement did not have any form of positive impact on any of their child's rights. When asked how the measure positively affected their child's rights, two parents said that the child spent more time with parents.
* When asked what they thought were the possibilities to modify the measure of the ban on movement or mitigate its impact on the welfare of children and children's rights, or what other compensatory measures could have been taken, the vast majority of parents (78%) did not have any specific proposals. A small number of them made the following suggestions: occasional visits to the day care centre by children with disabilities, visits to nature (three), special educators at home (two), video calls and online communication (two).
* One third of parents (13) cited the following as negative medium and long-term impacts of measures restricting and banning movement: prevention of development, permanent negative impact, slow return to routine and deterioration of mental development.
* Only six of the 41 parents (14.6%) stated that even after the lifting of the state of emergency, there were some negative impacts on the day care service. Parents who determined such a negative impact stated that the day care service was not complete even after the lifting of the state of emergency.[[17]](#footnote-17)
* Ten parents (24.4%) stated that the same effect could have been achieved with a less restrictive measure without affecting the child's rights, while seven (17%) stated "probably" as the answer. Other parents felt that this was not possible or did not give an answer (58.5%).
* Almost all parents, except for three of them, pointed out that some other measures during the state of emergency did not affect the rights of their children. Other measures that did affect their child's rights include a ban on contact and the inability to use transportation.
* Parents pointed out that after the lifting of the state of emergency, there were no measures that negatively affected the rights of their children (83%). Parents who stated that there were measures that affected the rights of the child stated the obligation to wear a mask and check-ups.
* Most parents did not state any measures that could have been taken that would not limit the accommodation of their child in the day care in the manner in which the measure of the ban on movement limited it, and only four of them believed that this could have been done by selective application of measures.
* Parents did not state that there was or still is an impact of some other measures taken during the state of emergency on the rights of children with disabilities.
* A very small number of parents, three of them (7.3%), stated that even after the lifting of the state of emergency, there was an impact of some measures on the use of the day care service. They stated that the day care centres do not work regularly, and that children have no walks while they are in the day care.
* Parents did not state that there is still some form of negative impact on their child's rights, or what forms of activities and which state bodies could eliminate the negative impact of measures taken during and after the lifting of the state of emergency on their child's rights, or how to improve, with greater participation of their children, the use of the day care service after the termination of the measure of the ban on movement.
* Only one parent stated that during the state of emergency he turned to a state authority due to the impossibility to exercise a right of his child.
* No parents stated that after the lifting of the state of emergency, they addressed a state authority due to the impossibility to exercise a right of their child.
* The majority of parents (80.1%) did not state which state authority/service contributed the most to the realization of their child's rights during the state of emergency. Those who did, mentioned the following bodies: Centre for Social Work, Union of Associations to Help Persons with Intellectual Disabilities in Serbia (MNRO Association Serbia), Centre for Accommodation of Children and Youth with Developmental Disabilities, the Minister of Health, President of the Republic of Serbia, Day care centre Zračak.
* Seven parents (17%) who answered the question of which state body/service contributed with their actions to the fact that their child's rights could not be realized during the state of emergency, stated the following bodies: Centre for Social Work (two), the Minister of Health (two), ministries (one), Government of the Republic of Serbia (one), Ministry of Interior (one).
* As many as eight parents (19.5%) stated that day care centres are the state body/service that, after the lifting of the state of emergency, contributed the most with their actions to the realization of their child's rights. Two parents stated that those were centres for social work, while the other parents did not state anything.
* No parent stated which state body/service contributed to the fact that their child's rights could not be realized after the state of emergency was lifted.

*Participation of children in the process of adopting measures*

Regarding the participation of children and the right of the child to express his/her opinion in all proceedings and on all issues in which his/her rights are decided on, children were not consulted when adopting measures after the declaration of the state of emergency in the Republic of Serbia. In this regard, the children did not have the opportunity to express their opinion on the proposed and adopted measures. Due to restricted movement, children were prevented from addressing various state bodies independently or through representatives in exercising their rights. They were not able to e.g., ask the court to appoint a temporary representative or to contact the guardianship authority in order to obtain a temporary guardian. Due to the suspension of court proceedings during the state of emergency, as well as the regular work of social welfare centres, children were prevented from expressing their opinions in accordance with their legal right in proceedings in which their rights are decided on. Children of divorced parents could not directly address state bodies except the Protector of Citizens. Mostly the parents were the ones who addressed the Protector of Citizens, who in that way tried to enable the realization of the child's right to maintain personal relations.

Accordingly, it is necessary to include children, especially children under the age of 15, in consultations on how they consider that rights that have been restricted or revoked during the state of emergency could be fully exercised if the imposed state of emergency or restricted movement occurs again. This applies in particular to the child's right to express his or her opinion, as well as to the child's right to contact public authorities in such emergencies.

*Comparative analysis of answers obtained from the questionnaire for parents and employees in day care centres*

Considering that as many as 87% of employees and 92% of parents stated that the measure of restriction of movement had a markedly negative impact on the rights of the child, it can be concluded that it was not proportional to the goal to be achieved, which is the protection of the health of citizens.

Employees and parents agree that the measure of the ban on movement, in addition to the obvious direct impact on the child's right to freedom of movement, most affected the child's right to health care, which is embodied in examinations and psychosocial treatments.

Most parents (53.7%) and employees (54.8%) agree that parents who had a work obligation during the state of emergency could not leave their children in day care centres or some other alternative form of accommodation.

It is indicative that despite the fact that the vast majority of parents and employees stated that the measure of the ban on movement had a markedly negative impact on children's rights, the vast majority of parents (78%) and employees had no concrete suggestions on how this impact could have been mitigated.

Regarding the assessment of whether the measure of the ban on movement had any positive or neutral form of impact on the rights of the child, there is agreement between parents and employees that this measure did not have any positive impacts.

Parents and employees share similar views on the medium and long-term impact of the measure of the ban movement on children's rights. Almost one third of respondents (32.8%) stated that the measure of restriction of movement had a medium-term and long-term impact on children's rights.

Only 22.6% of employees and 14.6% of parents stated that even after the lifting of the state of emergency, there are negative impacts on the realization of the child's right to accommodation in day care centres. This confirms to us that in the long and medium term, there are no negative impacts of the measure of the ban on movement on the right to the day care social service from the field of social protection of children.

As many as 83% of parents and 58% of employees agree that after the lifting of the state of emergency there are no negative impacts on the realization of the rights of children with disabilities.

A high percentage of parents (80%) state that during the state of emergency, no authorities have made a positive or negative impact on the rights of the child with their actions, which can be interpreted as a consequence of poor information of parents about the work of competent authorities.

1. CONCLUSIONS

The child's right to maintain personal relations with a parent with whom he or she does not live and the child's right to use the social security service – day care, were mostly subject to abuse, restriction and violation during the measure of prohibition of movement, during the state of emergency caused by the pandemic of the COVID-19 infectious disease, and to some extent also after the lifting of the state of emergency. This measure affected various rights of the child such as the right to full and proper development of the child, the right to maintain personal relations with parents, the right to maintain personal relations with close persons, the right to education, the right to social protection, the right to socialize and the right to respect for family life.

Measures of the Government of the Republic of Serbia, the Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Interior and the Ministry of Public Administration and Local Self-Government, significantly influenced the exercise of this right. The procedure for obtaining a movement permit at the time of the movement ban should have been simpler. Coordination of the competent state authorities was not at the required level at the very beginning, so it is important that in case of re-declaration of the state of emergency, it is clear which body is responsible for issuing movement permits.

The right of children to participate in consultative processes during the adoption of measures during the state of emergency was denied, because children were not consulted before the adoption of measures, nor did the competent authorities anticipate the negative impact of these measures on the exercise of their rights.

When it comes to the child's right to maintain personal relations with a parent with whom he or she does not live, the Protector of Citizens was mostly approached by fathers during the state of emergency. After the issuance of permits for movement was enabled and after the abolition of measures restricting movement, citizens no longer addressed the Protector of Citizens on this occasion.

Children with disabilities were in a very unfavourable situation of social exclusion during the ban on movement and after the end of the state of emergency, due to the inability to transform the daily care needed to preserve and develop their potential into activities that can be done remotely. During the ban on movement, the adopted measures affected the realization of the right of children with disabilities to additional support and assistance to their development, independence, education and active participation in the community, which corresponds to the child's condition, the right to health care and rehabilitation, the right to rest and free time, play and leisure, participation in recreational and cultural-artistic activities, the right to social protection and social inclusion and the right to express an opinion. Because they could not go out and use the day care service, the children withdrew to themselves.

One third of parents stated that the measures had negative medium and long-term impacts on the child: prevention of development, permanent negative impact, slow return to routine and worsening of mental development. Even after the lifting of the state of emergency, children with disabilities were still in a position of social exclusion to some extent because the day care service was not fully re-established: some day care centres remained closed even after the lifting of the state of emergency; children did not come every day and the work took place in small groups. Children who did not use the day care service for a while needed to get used to the conditions in the centres again. It should be noted that the measures that affected social exclusion, isolation from peers and the lack of necessary psychosocial and other specialist treatments to achieve their independence, inclusion in the community and communication skills, also had a lasting impact, i.e., they left consequences on their development, which was confirmed by the surveyed employees and parents.

Thus, the long-term impact of the ban on movement is not only reflected in the absence of the provision of the social welfare service – day care, but also in the damage caused to children's development: they retreated, stagnated in development and socialization.

In addition to children with disabilities, the measure of the ban on movement also affected their parents. During the state of emergency, employed parents were not able to leave their children in any other form of accommodation except in the day care centres, which were closed. This was a problem for one quarter of the parents of participants in the research who had a work obligation and no one to leave their child with. On the other hand, employers did not offer any alternative way of caring for children while their parents were at work.

The research also showed that there is a generally low level of trust of parents of children with disabilities in institutions, as well as the need to work on raising parents' awareness of the need and importance of involving children in decision-making processes on social protection services they use or should use.

The right to participation of children with disabilities as actors in consultative processes during the adoption of measures during the state of emergency was not respected, since children were not consulted before the adoption of measures, nor did the authorities anticipate the negative impact of these measures on the exercise of rights of this category of children.

1. RECOMMENDATIONS
* Decision-makers should consider, before adopting similar measures, how they will affect the exercise of children's rights and should reduce the negative impact to a minimum by excluding children or certain categories of children from their implementation;
* Competent authorities should, when adopting similar measures, take into account the professional and family responsibilities of parents and, accordingly, provide adequate support to children with disabilities (e.g., individual support for children in family households, work in smaller groups in day care centres, etc.);
* The competent authorities should ensure that the process of adopting such or similar measures is participatory, i.e., that all stakeholders are involved, including children, parents, employees of social welfare institutions, etc.
* The Ministry of Labour, Employment, Veteran and Social Affairs should:
* ensure that the day care service is provided to all children with disabilities in all local self-government units;
* ensure that the work in the day care centres is carried out in accordance with the prescribed standards – regularly in the provided groups;
* ensure that day care centres provide services of regular examinations and therapeutic treatments (special educator, psychologist) and regular walks for children with disabilities;
* ensure that future activities in this area are aimed at parents and children – home visits to beneficiaries;
* ensure that the employees at day care centres develop individual support plans for children in the event of the reintroduction of the measure of the restriction of movement;
* ensure that activities in the day care centres in the event of re-closure take place through online platforms.
1. REFERENCES
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5. Special report of the Protector of Citizens on the state of children's rights in the Republic of Serbia, Belgrade, 2018.
6. Special report on the activities of the Protector of Citizens during the state of emergency, Belgrade, 2020.
7. Network of Organizations for Children of Serbia (MODS), BEING A CHILD DURING THE COVID-19 PANDEMIC – Analysis of research on the impact of emergency measures on children during the COVID-19 pandemic in Serbia, Belgrade, 2020.
8. Tamara Dzamonja Ignjatovic, Biljana Stankovic, Tamara Klikovac, Experiences and quality of life of older persons during the COVID-19 pandemic and the introduction of restrictive measures in Serbia, Psychological Research, Vol. XXIII, 2, 2020.
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10. Human rights in Serbia during the first wave of COVID-19: from denial of danger to the state of emergency, A 11 Initiative for Economic and Social Rights, Belgrade, 2020.
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12. ANNEX I

QUESTIONNAIRE FOR PARENTS / GUARDIANS OF CHILDREN WITH DEVELOPMENTAL DISABILITIES - BENEFICIARIES OF THE DAY CARE SERVICE

1. What kind of impact did the measure of restriction of movement during the state of emergency caused by the COVID-19 pandemic have on the well-being and rights of your child?
2. Has the restriction of movement particularly affected any of your child's rights? If so, describe how?
3. During the state of emergency, were there any possibilities for your child to be taken care of in some form of accommodation other than the day care centre?
4. During the state of emergency caused by the COVID-19 pandemic, did you have an obligation to go to work (work obligation)?
5. Was it possible, if you had a work obligation during the state of emergency, to leave your child in a day care centre or some other alternative form of accommodation?
6. Did the employers have any suggestions or alternative ways to take care of your child while you were at work?
7. Did the measure of prohibition and restriction of movement have a negative impact on the right to accommodation of your child?
8. Describe the impacts of this measure?
9. If you identified a negative impact of this measure, what are your options for modifying the measure or mitigating its impact on the welfare of children and children's rights? What other compensatory measures could have been taken?
10. Has the restriction of movement had any positive impacts on any of your child's rights?
11. If the answer to the previous question is yes, how did the measure positively impact your child's rights?
12. In your opinion, what is the medium and long-term impact of the ban on movement on children with developmental disabilities?
13. Were there any negative impacts on the service of accommodation of your child in a day care centre after the lifting of the state of emergency?
14. If the answer to the previous question is yes, describe the impacts?
15. Could any other measure/measures have achieved the same effect in relation to the parents of children with developmental disabilities?
16. Could a less restrictive measure have been used to achieve the same effect, without affecting your child's rights?
17. Did any other measures during the state of emergency affect your child's rights?
18. Have any other measures affected your child's rights since the state of emergency has been lifted?
19. What measures could have been taken that would not limit the service of accommodation of your child in the day care in the way that the measure of restraint did?
20. Indicate whether there was an impact of some other measures taken during the state of emergency on your child's rights or if it still exists?
21. Indicate whether there was an impact of some other measures taken during the state of emergency on the rights of children with disabilities or if it still exists?
22. After the lifting of the state of emergency, is there any impact of some measures on the service of accommodation of your child in the day care?
23. If there is still some form of negative impact on your child's rights, explain what the impact is and what measures should be taken to avoid or minimize further negative impact?
24. Indicate which forms of activities and which state authorities were able to eliminate the negative impact of measures adopted during the state of emergency and after its lifting on the rights of your child?
25. How is it possible, with the greater participation of your child, to improve the service of accommodation in the day care after the end of the measure of the ban on movement?
26. During the state of emergency, did you turn to a state body/service due to the impossibility of exercising some of your child's rights?
27. After the lifting of the state of emergency, did you turn to a state body/service due to the impossibility of exercising a right of your child?
28. Which state authority/service contributed the most with its actions to the realization of your child's rights during the state of emergency?
29. Which state authority/service contributed with its actions to the fact that your child's rights could not be realized during the state of emergency?
30. Which state authority/service, after the lifting of the state of emergency, contributed the most with its actions to the realization of your child's rights?
31. Which state authority/service, after the lifting of the state of emergency, contributed with its actions to the fact that your child's rights could not be realized?

9. ANNEX II

QUESTIONNAIRE FOR EMPLOYEES IN DAY CARE CENTRES FOR

CHILDREN WITH DISABILITIES

1. What impact have you noticed that the measure of restriction of movement during the state of emergency caused by the COVID-19 pandemic has had on the welfare and rights of children with disabilities?
2. Did the restriction of movement particularly affect any of the rights of this category of children? If so, describe how?
3. Was it possible for parents who had a work obligation during the state of emergency to leave their children in day care centres or some other alternative form of accommodation for children with disabilities?
4. Has the measure of prohibition and restriction of movement had a negative impact on the exercise of the right to a day care service for children with disabilities?
5. Describe the impacts of this measure?
6. If you identified a negative impact of this measure, what do you think were the options for modifying or mitigating its impact on the welfare of children and children's rights? What other compensatory measures could have been taken?
7. Has the measure of restriction of movement had any form of positive impact on any of the rights of children with disabilities?
8. If the answer to the previous question is yes, how did this measure positively affect the exercise of the right to accommodation in a day care centre for children with disabilities?
9. What are the possible options to maximize the impact of this measure on the welfare of children and children's rights?
10. What is the medium and long-term impact of the ban on movement on children and children's rights?
11. Is there an additional concern about the COVID-19 pandemic in Serbia regarding the impact of some measures on the rights of children with disabilities in the future?
12. What is the medium and long-term impact of the ban on movement on children with disabilities?
13. Were there any negative impacts on the right to accommodation in a day care centre for children with disabilities after the state of emergency was lifted?
14. If the answer to the previous question is yes, describe the impacts?
15. Can any positive or negative impacts of measures taken during and after the lifting of the state of emergency on the rights of children with disabilities to accommodation in a day care centre be expected in the future?
16. How did the measure of the ban on movement during the state of emergency affect the parents of children with disabilities?
17. Could any other measure/measures have achieved the same effect in relation to the parents of children with disabilities?
18. Could a less restrictive measure have achieved the same effect, without affecting the rights of children with disabilities?
19. What measures could have achieved that the right of children with disabilities to accommodation in a day care centre was not restricted in the way that the measure prohibiting movement restricted it?
20. Indicate whether there was an impact of some other measures taken during the state of emergency on the rights of children with disabilities or if it still exists?
21. Indicate whether there was an impact of some other measures taken during the state of emergency on the right of children with disabilities to accommodation in a day care centre or if it still exists?
22. After the lifting of the state of emergency, is there any impact on the right of children with disabilities to accommodation in a day care centre?
23. If there is still some form of negative impact, explain what the impact is and what measures should be taken to avoid further negative impact or minimize it?
24. Indicate which forms of activities and which state authorities were able to eliminate the negative impact of the ban on movement during the state of emergency and after its lifting?
25. How is it possible, by greater application of the principle of participation of children with disabilities, to contribute to the improvement of their right to accommodation in a day care centre after the lifting of the ban on movement?
1. "Official Gazette of RS", number 65/2020 [↑](#footnote-ref-1)
2. All terms expressed in the text in grammatical masculine gender imply the natural masculine and feminine gender of the person whom they refer to. [↑](#footnote-ref-2)
3. Article 9, paragraph 3, of the Convention on the Rights of the Child of the United Nations. [↑](#footnote-ref-3)
4. Article 18, paragraph 3, of the Convention on the Rights of the Child of the United Nations. [↑](#footnote-ref-4)
5. Researcher's note: Participation of children with disabilities could not be achieved mainly because a significant number of children who used the day care service at the time of the survey did not have developed verbalization capacities, and their live interview was not possible because entering the social welfare institutions was not allowed. Also, a certain number of parents showed a certain degree of distrust towards children participating in interviews [↑](#footnote-ref-5)
6. The Youth Advisory Panel is an advisory body established in 2010 as a form of permanent participation of children and youth in the work of the Protector of Citizens [↑](#footnote-ref-6)
7. "Official Gazette of RS", no. 18/2005, 72/2011 – as amended, 6/2015 [↑](#footnote-ref-7)
8. "Official Gazette of RS", No. 98/2006 [↑](#footnote-ref-8)
9. "Official Gazette of RS", no. 34/2020, 39/2020, 40/2020 and 46/2020 [↑](#footnote-ref-9)
10. "Official Gazette of RS", no. 41/20 and 43/2020 [↑](#footnote-ref-10)
11. "Official Gazette of RS", No. 24/2011 [↑](#footnote-ref-11)
12. This is a research that is periodically conducted by the Team of the Government of the Republic of Serbia for Social Inclusion and Poverty Reduction in cooperation with the Standing Conference of Towns and Municipalities, the Republic Institute for Social Protection and the Center for Social Policy. [↑](#footnote-ref-12)
13. Available at: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2020/09Mairanje\_usluga\_socijalne\_zastite\_i\_materijalne\_podrske\_u\_nadleznosti\_JLS\_u\_RS.pdf [↑](#footnote-ref-13)
14. "Official Gazette of RS", number 29/2020 [↑](#footnote-ref-14)
15. "Official Gazette of RS", no. 31/20, 36/20, 38/20, 39/20, 43/20,

47/20, 49/20 and 53/20. This Decree shall enter into force on the day of its publication in the "Official Gazette of the RS", 05 number 53-3166/2020 [↑](#footnote-ref-15)
16. Ozn: II -8 number 1782/2 of the city of Belgrade. [↑](#footnote-ref-16)
17. A large percentage of parents (85%) stated that even after the lifting of the state of emergency, they could not attain social services for their children, Research on the impact of the COVID-19 pandemic on families with children in Serbia (second wave of research), UNICEF, 2020, page 5. [↑](#footnote-ref-17)