



**Committee on the Rights of the Child**

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**INICIJATIVA**

*Inicijativa za sustavno i kvalitetno uvođenje građanskog odgoja i obrazovanja u odgojno-obrazovni sustav*

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**Re.: Communication for consideration by the Committee on the Rights of the Child under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OPIC) regarding the violation of the right of access to education and the discrimination against children whose mother tongue is not Croatian in the process of distance learning, based on the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (»Official Gazette - International agreements« No. 2/2017)**

Respected Committee members,

This communication is being submitted by the GOOD Initiative, a citizens' initiative which advocates introduction of systematic and quality education for human rights and democratic citizenship in the educational system of the Republic of Croatia. We are hereby submitting the communication on behalf of the alleged victims. Although we are submitting the communication without the consent of all alleged victims, organizations that are members of this citizens' initiative are advocating for the rights of national minorities and the rights of asylum seekers and persons under the subsidiary protection.

We are submitting a complaint against the Republic of Croatia for the violations of Articles 28, 29 and 30 of the International Convention on the Rights of the Child (Official Gazette 12/93), pursuant to the provisions of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (Official Gazette - International Agreements No. 2/2017).

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The complaint refers to the violation of the right of access to education and the discrimination against children whose mother tongue is not Croatian (members of national minorities, children asylum seekers, children under international protection, foreigners under subsidiary protection, children foreign nationals unaccompanied by their parents, children foreign nationals with irregular migration status and children migrants) in the process of conducting distance learning in the conditions of a declared epidemic in the territory of the Republic of Croatia.

**Facts of the complaint and nature of the alleged violations of the Convention on the Rights of the Child:**

Starting from March 16, 2020, when the teaching in schools and preschool education institutions was suspended and the so-called distance learning was initiated, some of the children are completely or partially excluded from the educational process and thus the exercise of the right to equality in education is obstructed.

Affected children are of Roma and other national minorities for whom Croatian is not their first and mother tongue, and children refugees and migrants who do not speak Croatian or are not proficient enough in Croatian language. All children from these vulnerable groups are at risk of developmental and learning delays during this period.

We would like to bring to attention that all children in the Republic of Croatia exercise the right to education on the basis of the Constitution, international documents, especially the Convention on the Rights of the Child, and on the basis of a number of state laws. Education must be available to all on the basis of the constitutional principle of equality of all citizens. In addition, the Constitutional Act on the Rights of National Minorities in the Republic of Croatia, the Law on Education in the Language and Script of National Minorities, the Law on International and Temporary Protection, and the Law on Education in Primary and Secondary School require that children from minority groups or children of applicants for the international protection, asylum seekers, aliens under subsidiary protection and aliens under temporary protection must be provided with all educational rights.

Despite the requests of experts and minority associations who addressed the Ministry of Science, Croatian Radio and Television and ombudswomen in the weeks after the suspension of classes in schools and preschool education, children of national minorities were not provided with appropriate educational content in the same form and format as the one for the children that are Croatian citizens from the majority ethnic group. Thus, preparatory or supplementary classes of the Croatian language, which would enable this group of children equal access to education, have not started as part of the television mediated educational programs “School on Channel 3”.

We consider such governmental practice to be detrimental to social cohesion, as enabling minority subjects to take place in the “School on Channel 3” programme, the entire population would have the opportunity to become aware of the ethnic diversity of their society, while persons belonging to national minorities could be recognize and affirm themselves as an integral part of that same society. Thus, in these extraordinary circumstances of the pandemic, an important integration opportunity



was missed, in a society where research indicates growing xenophobia and intolerance towards members of national minorities and people with refugee and migrant experience.

Apart from the fact that distance learning failed to provide preparatory or supplementary Croatian language classes to certain categories of children through public television, the same form of teaching is discriminatory towards children from these vulnerable groups because it did not consider the deprived socio-economic conditions in which they live. Namely, children of Roma, Serbian, Arab or other ethnic origin and those with refugee or migrant experience often live in conditions of poverty and other disadvantaged conditions. Some children do not have material provisions (electricity supply, TV, sufficient number of tablets and computers in poorer families and / or families with more children) and other basic conditions for work such as a desk and a quiet learning corner, in order to participate in distance learning. For some children, generally from the most socio-economically disadvantaged families, family members cannot provide the necessary support in mastering educational material.

We wish to stress that children attending preschool programs, especially those from vulnerable groups, according to a series of studies, benefit the most from inclusion in quality preschool programs. This applies in particular to children from national minorities and asylum seekers which were not included in the programs of pre-school education institutions (kindergartens), and which should have been included in pre-school programs for the legally prescribed minimum of 250 hours. These children have lost that opportunity and will potentially lag behind other children when they start school next year.

In accordance with Croatian legal regulations, race, ethnic origin and citizenship represent the grounds on which discrimination is prohibited, and restrictions of access to education for children belonging to certain ethnic groups cannot be objectively justified, could not be aimed at a legitimate goal and certainly do not ensure protection of the best interests of the child, therefore they are essentially discriminatory.<sup>[1][2][3][4][5][6][7][8][9][10][11][12][13][14][15][16][17][18][19][20][21][22][23][24][25][26][27][28][29][30][31][32][33][34][35][36][37][38][39][40][41][42][43][44][45][46][47][48][49][50][51][52][53][54][55][56][57][58][59][60][61][62][63][64][65][66][67][68][69][70][71][72][73][74][75][76][77][78][79][80][81][82][83][84][85][86][87][88][89][90][91][92][93][94][95][96][97][98][99][100]</sup> Recently published statement by the United Nations Network on Racial Discrimination and the Protection of Minorities of April 29, 2020 emphasizes the commitment to combat discrimination and protect minorities during the Covid-19 pandemic, as negative phenomena such as racism and discrimination are more prevalent toward members of racial, ethnic and religious minorities during the COVID-19 pandemic. Thus, the United Nations Network on Racial Discrimination and Protection of Minorities reminds that it is not the time for further divisions, but for solidarity and inclusion of the underprivileged.

### **The steps taken to exhaust domestic remedies before submitting this communication to the Committee on the Rights of the Child:**

A number of actions were taken to exhaust available domestic remedies, having in mind predominantly attempts at administrative and programme remedies. The main addressee was the Ministry of Science and Education as well as other public institutions including the Ombudswoman for Children, the Ombudswoman, the Government's Office for Human Rights and the Rights of National Minorities, the Council for National Minorities, the representatives of the national minorities in the Parliament, etc.



1. Complaint on violation of children's rights based on the decisions of the Ministry of Science and Education on the organization and design of distance learning submitted by Ms. Antonija Petričušić to the Ombudswoman for Children pointing out the breach of children's right in the distance learning and the discrimination of certain categories of children in the newly established model of education, dated 28 March 2020
2. Ombudswoman for Children issued Letter to the Minister of Education and Science warning about the discrimination of certain categories of children following the complaint on violation of children's rights submitted by Ms. Antonija Petričušić, dated 31 March 2020
3. Request submitted by Ms. Antonija Petričušić, member of the Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities in Croatia, to the Ministry of Science and Education and the Croatian Radiotelevision (public broadcaster) with a request to provide education of Croatian language to children who are non-native speakers in the Croatian language over the public broadcasting service which had been providing virtual classes for primary school students since the beginning of the lockdown, dated 29 March 2020
4. Response by Marko Košiček, Ph.D., Chief Advisor to the Minister of Science and Education to the request submitted by Ms. Antonija Petričušić to the Ministry of Science and Education and the Croatian Radiotelevision to provide education of Croatian language to children who are non-native speakers over the public broadcasting service. The Chief Advisor to the Minister of Science and Education asked in this email the minority expert Ms. Antonija Petričušić to submit "concrete proposals to help, upgrade and expand the currently available concept of distance education" that would involve children to whom Croatian language is not a mother tongue, dated 30 March 2020
5. Response of Ms. Antonija Petričušić to the Chief Advisor to the Minister of Science and Education Mr. Marko Košiček, detailing legislative grounds for the organization of lectures of the Croatian language for non-native speakers during the pandemic lockdown and education in the languages of national minorities, including a comprehensive list of organizations and experts that are able to assist in production of a programme of this kind, dated 1 April 2020
6. Deputy Ombudswoman Letter to the Ombudswoman for Children, backing the request submitted by Ms. Antonija Petričušić dated 29 March 2020 pointing towards discrimination of certain categories of Roma children and children of asylum seekers are being discriminated in the distance learning education, dated 1 April 2020
7. Request submitted by Ms. Nina Čolović on behalf of the Serb National Council to the Ministry of Science and Education, the Croatian Radiotelevision (public broadcaster) and the Education and Teacher Training Agency with a request to establish educational programme in the Serbian language in the programme of the public broadcaster delivered during the COVID-19 pandemic, dated 14 April 2020



8. Ombudswoman response to Serb National Council, dated 20 April 2020

9. The letter submitted by the GOOD Initiative to the Minister of Education and Science and to the Ombudswoman for Children asking why some children in Croatia in the distance learning education have been left behind, dated 24 April 2020

10. Request of the Ombudswoman for Children to the Minister of Education and Science following the motion of the GOOD Initiative to provide protection of rights and interests of children in the distance education, dated 15 May 2020

11. Open letter by the GOOD Initiative, Are You Syrious?, Serb National Council and Croatian Roma Youth organisation asking why some children in Croatia have been left behind in the distance learning education, dated 19 May 2020

All of the above documents are provided in addition to this communication, in Croatian language.

No decisions issued by the authorities in question are provided because the authorities failed to address numerous complaints and requests to provide education for children belonging to national minorities, refugees, asylum seekers and children under subsidiary protection.

Although it might be considered that we had not exhausted all available domestic remedies because we have not filed a complaint to the domestic court, we are nevertheless submitting this communication considering that a judicial procedure before the national court in this matter would unduly prolong the establishment of human rights violation.

Since Croatian authorities have failed to include children whose mother tongue is not Croatian in the educational process through distance learning, some categories of children are therefore discriminated against, while equal basic education is not provided for all children in the Republic of Croatia. We therefore demand that you act and warn the Croatian Government to provide and organize quality, inclusive and comprehensive education for children of Roma and other national minorities for whom Croatian is not their first and mother tongue as well as for children refugees and migrants, taking into account the specific needs of these particularly vulnerable groups.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emina Bužinkić'.

Emina Bužinkić

A handwritten signature in black ink, appearing to read 'Antonija Petričušić'.

Antonija Petričušić





In Zagreb, June 3, 2020

**Relevant international and domestic legislation:**

Constitution of the Republic of Croatia (Official Gazette« No 85/2010.)

The UNESCO's Convention against Discrimination in Education

Convention on the Rights of the Child (»Official Gazette - International agreements« No 12/1993)

Optional Protocol to the Convention on the Rights of the Child on a communications procedure (»Official Gazette - International agreements« No 2/2017)

National Strategy on the Rights of Children in the Republic of Croatia for the period 2014–2020

Constitutional Act on the Rights of National Minorities (Official Gazette No 155/2002)

Law on the Education in the Language and Script of National Minorities (»Official Gazette« No 51/00 and 56/00)

Act on the Ombudsman for Children (»Official Gazette« No 73/2017)

Act on International and Temporary Protection (Official Gazette« No 70/15, 127/17)

Primary and Secondary School Education Act (Official Gazette« No 87/08, 86/09, 92/10, 105/10, 90/11, 5/12, 16/12, 86/12, 126/12, 94/13, 152/14, 07/17, 68/18, 98/19)

Act on Preschool Education (Official Gazette« No 10/97, 107/07, 94/13, 98/19)

Decision on the suspension of teaching in the institutions of higher education, secondary and primary schools, suspension of regular functioning of pre-school education institutions and the establishment of distance learning (Official Gazette, No 29/20)

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Decision on the forms of teaching in primary and secondary schools as well as in higher education institutions and the maintenance of regular work in pre-school education institutions (Official Gazette, No 55/2020)

Act on the Protection of the Population from Infectious Diseases (Official Gazette 79/07, 113/08, 43/09, 130/17, 114/18 and 47/20)

Decision of the Minister of Health on declaring an epidemic of infectious disease COVID-19 caused by the SARS-CoV-2, class: 011-02 / 20-01 / 143, registration number: 534-02-01-2 / 6-20-01, dated 11 March 2020.

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