

**Written information
for the European
Commission against
Racism and
Intolerance (ECRI)'s
6th monitoring round
country visit to
Serbia**



General remarks about the protection from discrimination

In Serbia, members of the Roma ethnic minority suffer from widespread discrimination and exclusion, unemployment, forced evictions¹ and *de facto* housing and educational segregation, discrimination in the field of employment, social protection, in media², by public officials, and in the provision of services.

On a positive note, amendments to the Law on Prohibition of Discrimination introduced, for the first time in the Serbian anti-discrimination law, explicit prohibition of discrimination in the field of housing, prohibition of segregation and introduced the obligation of public authorities to assess the impact of new regulation or public policy on the position of socio-economically vulnerable persons. The introduction of an impact assessment could prevent or reduce the number of situations in which the effects of regulations are such that they put those who are already most vulnerable in a less favorable position. However, there are still no examples of adequate implementation of this duty in practice.

Exclusion of vulnerable Roma children from financial benefits for families with children

In strong contrast to the need to take additional steps to improve the position of vulnerable Roma, **the Law on Financial Support to the Family with Children** (hereinafter: LFSFC) **discriminates against Roma children**. Article 25 of the Law, as amended in 2018³ and 2021,⁴ introduced **additional conditions for parental allowance**, i.e., that children must be fully and timely vaccinated and that they must regularly attend elementary school and obligatory preschool education. Although these conditions, on the face of it, are neutral, their effects disproportionately affect vulnerable Roma children.

Available data points to the **wide gap between Roma and non-Roma children in school and pre-school attendance, as well as in immunization coverage**. Thus, the regional UNDP research about Roma shows that about one in six marginalized Roma children of school age is still not participating in the education system.⁵ The same research shows that the **completion rate of compulsory education among Roma girls is only 57%, compared to 93% among non-Roma girls and 95% non-Roma boys**.⁶ According to 2019 data from UNICEF and the Republic Statistical Office, the percentage of Roma children enrolled in school in early childhood is only 7% compared to 61% for the general population. **The primary school completion rate among children living in Roma settlements is 64%**.⁷ School attendance rates for children from Roma

1 See also A 11 Initiative, The European Court of Human Rights temporarily prevented another forced eviction in Belgrade by adopting a request for an interim measure, available at <https://www.a11initiative.org/en/the-european-court-of-human-rights-temporarily-prevented-another-forced-eviction-in-belgrade-by-adopting-a-request-for-an-interim-measure/> and A 11 Initiative, The eviction procedure of the inhabitants of the settlement "Vijadukt" in Resnik was illegally carried out, available at <https://www.a11initiative.org/en/the-eviction-procedure-of-the-inhabitants-of-the-settlement-vijadukt-in-resnik-was-illegally-carried-out/>

2 See also A 11 Initiative, „Pink“ discriminated and humiliated the Roma, available at <https://www.a11initiative.org/en/pink-discriminated-and-humiliated-the-roma/>.

3 Law on Amendments to the LFSFC, Official Gazette of the RS, No. 50/2018 of 29 August 2018.

4 Law on Amendments to the LFSFC, Official Gazette of the RS, No. 66/2021 of 30 June 2021 and 130/2021 of 29 December 2021.

5 UNDP, Roma at glance, Serbia, available at:

https://www.eurasia.undp.org/content/dam/rbec/docs/Factsheet_SERBIA_Roma.pdf, page 2.

6 Ibid.

7 UNICEF and Statistical Office of the Republic of Serbia, Serbia, Multiply Indicator Cluster Survey 2019 and Serbia Roma Settlements Multiple Indicator Cluster Survey 2019, Survey findings report, Belgrade, October

settlements are lower compared to the national average at all three levels, particularly at the level of early childhood education (7%). The completion rates for primary and secondary education in the general population are high, while these rates are significantly lower for children coming from Roma settlements.⁸ Among children in the general population, the attendance rate in the preparatory preschool program remained very high (97%), while being substantially lower in Roma settlements (76%).⁹ Immunization coverage is also lower among Roma children. According to 2019 data from UNICEF and the Republic Statistical Office, only **around one-third (35%) of Roma children have received all vaccines on time**, compared to 69% of children in the general population who have received all vaccines on time.¹⁰ Presented data on school and preschool attendance and immunization coverage among Roma and non-Roma children clearly suggest that conditions for parental allowance have a disparate impact on Roma children.

At the end of 119th session the UN Human Rights Committee concluded that Serbia failed to act on the recommendations related to the exclusion of Roma and **requested that, within the next reporting cycle, Serbia should provide, *inter alia*, specific information on how amendments to the Law on Financial Support for Families with Children, and especially Article 25 of that Law, which regulates the right to parental allowance, affect the Roma community.**¹¹

Furthermore, the Committee on Economic, Social and Cultural Rights upon examining the third report of the Republic of Serbia under the International Covenant on Economic, Social and Cultural expressed its concern about conditioning the parental allowance on certain criteria, such as school attendance and vaccination of children, which has a significant discriminatory effect on Roma families.¹² The **Committee on Economic, Social and Cultural Rights recommended that Serbia review the conditions attached to the parental allowance, with a view to removing the conditions that are discriminatory or have a discriminatory effect and contradict human rights norms.**¹³ No steps have been taken to act on the recommendations of the Committee on Economic, Social and Cultural Rights and to change the conditions that prevent the realization of the right to parental allowance for the most vulnerable Roma children. Furthermore, it is important to note that in Serbia **families are eligible to receive parental and child allowance for up to four children.** Limiting the number of children eligible for parental and child allowance is another condition that affects proportionately the most

2020, xvii; hereinafter: MICS 2019, available at:

<https://www.unicef.org/serbia/media/16726/file/MICS%206%20Multiple%20Indicator%20Cluster%20Survey%20for%202019.pdf>

⁸ Serbia Multiple Indicator Cluster Survey 2019 and Serbia Roma Settlements Multiple Indicator Cluster Survey 2019, Statistical Snapshot, page 37, available at:

[https://www.unicef.org/serbia/media/16301/file/Serbia%20\(National%20and%20Roma%20Settlements\)%202019%20MICS%20Statistical%20Snapshots_English.pdf](https://www.unicef.org/serbia/media/16301/file/Serbia%20(National%20and%20Roma%20Settlements)%202019%20MICS%20Statistical%20Snapshots_English.pdf)

⁹ Ibid, 35.

¹⁰ MICS 2019, xv.

¹¹ Report on follow-up to the concluding observations of the Human Rights Committee, page 4.

¹² CESCR, Concluding observations on the third periodic report of Serbia, 6 April 2022, E/C.12/SRB/CO/3, para. 50.

¹³ Ibid, para. 51 (b).

vulnerable Roma. Although Roma make up 2.05% of the population, their share in families with 5 or more children is 32.66 %. This welfare family cap are putting most vulnerable Roma families at even greater risk of social exclusion and discrimination.

The Law on Social Card

The Law on Social Card generated numerous issues that disproportionately harm Roma communities, given their overrepresentation in the welfare system. In 2022, the Law on Social Cards came into force, with one of the aims to introduce the “automation of procedures and processes related to acting in the field of social protection”, as prescribed in Art. 4 of the Law.

Despite its proclaimed objective to contribute to a fairer distribution of welfare benefits, the Law on Social Cards brought the opposite results causing the loss of social benefits for at least 27,000 vulnerable individuals.¹⁴ The Law introduced disproportionate processing of around 140 personal data of social beneficiaries and persons related to them. It denies social benefits, but also due process – if a system finds that a beneficiary no longer meets the condition for social benefits, the system does not require the caseworker to interview the beneficiary and leave them the opportunity to explain their situation, which is clearly in contradiction to the provisions of the Law on General Administrative Procedure. This automated decision-making is also in contradiction with the Personal Data Protection Law, Art. 9 of International Covenant on Economic, Social and Cultural Rights, the Convention on the Protection of Individuals with Regard to Automatic Processing of Personal Data and the European Convention on Human Rights.

Furthermore, after the beginning of the implementation of the Law on Social Card, there is an **increased number of cases in which vulnerable persons performing occasional and seasonal jobs lost their financial assistance (FSA), since the income from seasonal jobs was registered in the social card system and unlawfully included for the purposes of calculating the income in the procedure of exercising the right to FSA.** On the other hand, the Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities, aiming to preserve some social rights of workers working in this regime, specifies that the earnings made from seasonal jobs shall not impact the exercise of the right to FSA. However, in practice, earnings from seasonal jobs lead to a loss of social benefits, particularly as of the beginning of the implementation of the Law on Social Card. The first reason is a bylaw (the Rulebook on Forms in the Procedure of Exercising the Right to Financial Social Assistance) which – contrary to the Law regulating work engagement in seasonal jobs – prescribes that income from seasonal work is included when calculating income in the process of exercising the right to social assistance. Second, when the social card system registers income from seasonal jobs, beneficiaries of financial social assistance do not have the possibility to explain that this income should not impact the exercise of the right to financial social assistance.

Exclusion of Roma without ID and permanent residence from cash assistance to mitigate consequences of the pandemic

¹⁴ Data received from the Ministry of Labour, Employment, Veteran and Social Affairs, on file with the A 11 – Initiative for Economic and Social Rights.

Roma without an ID card and permanent residence were excluded from the cash benefit of € 10015 in 2020 and € 8016 in 2021 – state measures introduced to mitigate consequences of the COVID-19 pandemic, which all adult Serbian citizens with an ID and registered permanent residence were eligible for. However, persons who do not have an ID card and registered permanent residence (and these are almost exclusively Roma) were not eligible for this form of assistance. These measures are among the most obvious examples of the exclusion of vulnerable Roma from state support aimed at mitigating the economic consequences of the COVID-19 pandemic.

It should be recalled that requiring documents (such as birth certificates, ID cards, or permanent residence) to access certain rights can discriminate against ethnic minorities who are not in possession or have been denied such documents.¹⁷ Furthermore, the exclusion of undocumented Roma from the possibility of receiving this cash assistance is fundamentally at odds with recommendations of international organizations and human rights treaty bodies regarding the response to the pandemic, which indicate that the needs of marginalized groups should be prioritized in the response to the pandemic and the allocation of resources.¹⁸ On the contrary, Serbia has allocated significant resources for the payment of financial assistance to all adult citizens (with valid ID cards), many of whom are certainly not in a state of vulnerability.¹⁹ Contrary to the principle of social justice and prohibition of discrimination, Roma without ID and permanent residence, who are the most marginalized and have no access to other types of assistance because they have no personal documents, could not receive this assistance.

The **Commissioner for the Protection of Equality** pointed out that the requirement of residence registration and ID card for access to support measures mainly affected Roma individuals, and **recommended that the competent Ministry of Finance take measures to include these persons in the support measures, either by amending the relevant regulation or by passing a new regulation.**²⁰ However, the Ministry of Finance ignored the recommendation and took no steps to include Roma without an ID card and residence registration in measures intended to mitigate the consequences of the pandemic. In the meantime, the law regulating this type of assistance was amended and envisaged additional financial assistance in two occasions, but the same conditions regarding residence registration

15 Article 15 of the Decree on Fiscal Benefits and Direct Benefits to Private Sector Companies and Financial Assistance to Citizens to Mitigate the Economic Consequences of COVID-19 stipulates that all adult citizens of the Republic of Serbia be paid one-time financial assistance in the amount of € 100 in dinars equivalent.

16 Law on the Temporary Registry of Adult Citizens of the Republic of Serbia Eligible for Financial Assistance for Mitigating of the Consequences of the Covid-19 Pandemic Caused by the SARS-COV-2 Virus, Official Gazette of the RS, No. 40/2021 and 96/2021) stipulates that all adult citizens of the Republic of Serbia will receive financial assistance in the amount of 60 €, paid in two instalments. Later amendments of this Law (Official Gazette of the RS, No. 96/2021) introduced additional financial assistance in the amount of 20 which was also available only to adult Serbian citizens with registered permanent residence and valid ID card.

17 For a similar conclusion see CESCR, General comment no. 20 (Non-discrimination), para. 10(b).

18 CESCR, Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights, 17 April 2020, para. 14.

19 A 11 – Initiative for Economic and Social Rights, Human Rights in Serbia during the First Wave of Coronavirus: from denial of danger to state of emergency, August 2020, pp. 20-21.

20 The Commissioner for the Protection of Equality, Recommendations of measures to the Ministry of Finance, No. 07-00-00353/2021, from 26 August 2021, available (in Serbian only) at: <http://ravnopravnost.gov.rs/rs/preporuka-mera-ministarstvu-finansija-2/>.

and ID card were maintained – once again confirming the discriminatory position towards undocumented Roma.²¹ The same conditions were maintained for the payment of financial assistance introduced in January 2022 to youth aged between 16 and 29.²²

In March 2022, in its Concluding observations on the third periodic report of Serbia, the Committee on Economic, Social and Cultural Rights expressed its concern about the absence of specific COVID-19 response measures to protect disadvantaged and marginalized individuals and groups and the failure to reach out to the most disadvantaged and marginalized individuals and groups.²³ The Committee on Economic, Social and Cultural Rights also recommended the State to immediately rectify the situation by providing the COVID-19-related cash benefits to those who were excluded, including due to a lack of permanent residence and identity documents. No measures have been taken to recommendations of the CESCR and Commissioner for the Protection of Equality and to include Roma without ID and permanent residence in state measures for mitigating consequences of the pandemic.

Problems with registration of permanent and temporary residence for Roma from informal settlements and IDPs

Option for persons without legal proof of housing to register permanent residence at the address of the social welfare center (established by the 2011 Law on Permanent and Temporary Residence of Citizens) facilitated access to social rights for Roma. However, this procedure is unavailable to Roma/IDPs whose residence is still registered in Kosovo which they left years ago.²⁴ If they live in an informal settlement, they cannot register the legal address where they live. They cannot register their *permanent* residence at the address of the social welfare center (SWC) as this option is intended for persons without registered residence and is not available to persons with formal residence in Kosovo.²⁵ Roma/IDPs from informal settlements cannot even register *temporary* residence since they lack legal proof for housing.²⁶ Therefore, Roma from Kosovo who live in informal settlements, with registered residence in Kosovo, cannot register a legal address in the place where they effectively reside for many years. Additional problems related to this procedure are: long duration of procedures to establish residence at the address of the SWC, arbitrary refusal of social welfare centres to grant permission to register permanent residence at their address to a person who is unable to register permanent residence in any other way, tying permanent residence

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21 Law on Amendments to the Law on the Temporary Registry of Adult Citizens of the Republic of Serbia Eligible for Financial Assistance for Mitigating the Consequences of the Covid-19 Pandemic Caused by the SARS-COV-2 Virus (Official Gazette of the RS, No. 96/2021).

22 Law on the Temporary Registry of Citizens of the Republic of Serbia aged 16 to 29 Eligible for Financial Assistance for Mitigating the Consequences of the COVID-19 Pandemic caused by the SARS-CoV-2 virus (Official Gazette of the Rs, No. 3/2022 and 20/2022).

23 CESCR, Concluding observations on the third periodic report of Serbia, E/C.12/SRB/CO/3, paras 20(b) and (c).

24 Praxis, Overview of obstacles to exercising the right to registration in birth registry books, acquisition of citizenship and registration of permanent residence in 2020, 2020, available at: https://www.praxis.org.rs/images/praxis_downloads/Overview_of_obstacles_to_exercising_rights_report_Praxis_2020.pdf, p. 10.

25 Ibid.

26 Protector of Citizens, *Special Report of the Protector of Citizens on the Implementation of the Strategy for Social Inclusion of Roma with Recommendations*, November 2019, available at: <https://www.ombudsman.rs/attachments/article/6359/ZAstitnik%20socialno%20ukljucivanje%20roma%2020191129c.pdf>, pp. 51-52.

registration for citizens of the Republic of Serbia to permanent employment or ownership of real estate in the place of residence.

Concerned about the continued difficulties faced by internally displaced Roma in terms of registering birth and their place of residence and acquiring identification documents, the Committee on Economic, Social and Cultural Rights recommended to the State to expand the application of the Law on Permanent and Temporary Residence of Citizens to internally displaced persons living in informal settlements who have registered their permanent residence in Kosovo, with a view to allowing them to register their residence at the address of a social welfare centre. It is appropriate to recall that access to rights in Serbia requires proof of residence and that the residence mechanism in Serbia and problems faced by the people living in poverty, Roma and internally displaced persons not only hinder the exercise of a number of human rights, but, according to the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right not to be discriminated against in this context, also increase social exclusion, stigmatization and discrimination.

Access to health care for Roma women and children

Undocumented Roma still face difficulties in access to health insurance, which particularly impacts Roma women and their access to adequate maternal health care. Roma women giving birth without health insurance are faced with high bills and threats to pay for medical treatment, i.e., for giving birth in a hospital without health insurance.²⁷ The Law on the Realization of Health Care for Children, Pregnant Women and New Mothers,²⁸ adopted back in 2013, regulates the manner of exercising the right to health care for children, pregnant women and new mothers whose health insurance documents (health insurance cards) are not certified. However, this piece of legislation **ignores those pregnant women and children who are not able to obtain health insurance cards at all, such as undocumented Roma**. For example, the A 11 Initiative came across cases of Roma women (including one undocumented 17-year-old Roma) who received hospital bills amounting to more than € 2,000 (for childbirth in a hospital) or even more than € 3,000 (for hospitalization related to pregnancy). Although the Law on the Exercising of Rights to Health Care of Children, Pregnant Women and New Mothers regulates the access to health care to those who already have a health insurance card (regardless of whether it is valid or not), the access to health care should be ensured to other children, pregnant women and new mothers as well, aimed at fulfilling obligations of Serbia under international treaties and recommendations of human rights treaty-bodies.

The situation of Roma women and children in the area of health care led the **Committee on the Rights of the Child to the conclusion that Roma mothers and young children are “particularly vulnerable and continue to have limited access to adequate maternal and general health care, resulting in high mortality rates (...)**”.²⁹ This Committee further recommended the State to “strengthen efforts to ensure that access to adequate health care, including prenatal care for pregnant women without health insurance, is extended to families living in the most vulnerable situations, particularly those living in marginalized and remote

²⁷ For more details, please see A 11 Initiative, Economic and Social Rights in Serbia – Distorted Image (in Serbian only), 2022, p. 66.

²⁸ Official Gazette of Republic of Serbia, No. 104/2013.

²⁹ Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Serbia, 7 March 2017, para. 45 (b).

areas". No measures have been taken to ensure access to health care for all children, pregnant women and new mothers, including those who are undocumented, in order to fulfill recommendations of human rights treaty-bodies.

Implementation of the Law on Housing and Building Maintenance

In 2016, Serbia adopted the new Law on Housing and Building Maintenance³⁰ which, for the first time regulated the resettlement procedure in cases when there are no alternatives to it. However, since the adoption of the Law, there were no cases where the authorities fully complied with the provisions of this Law. For example, the first case of the implementation of the Law happened when the Roma community of waste pickers living on "Vinča" landfill was

evicted by the City of Belgrade. In this case, 30-40 individual collectors of secondary raw materials were subjected to the eviction procedure, and only a handful of them were provided with alternative accommodation, which did not meet the criteria of affordability. For example, the group of Roma waste pickers with registered residence were provided with alternative accommodation in social housing units in Belgrade, where their utility bills were bigger than their social assistance, and they were not able to pay them regularly. On the other hand, families without registered residence in Belgrade, were not even provided with alternative accommodation in the municipalities where they are coming from, until the A 11 Initiative submitted the complaint regarding the EBRD project Belgrade Solid Waste PPP in November 2020.³¹ Serbia lacks systemic solutions for the improvement of Roma housing in informal settlements, even though the research shows that in Serbia, there are 702 substandard Roma settlements. The latest research showed that in 159 substandard Roma settlements, with a total population of 32,843, inhabitants have no or have only irregular access to clean water. Access to sewage is irregular or missing in 457 substandard Roma settlements, and at least 24,104 Roma living in 64 settlements have no access to electricity.³² However, Serbia have failed to adopt the National Housing Strategy which should set the priorities for housing interventions of the State and improve the access to adequate housing for most vulnerable populations, including Roma.

All of this have led the Committee on Economic, Social and Cultural Rights to express its concern over the **limited provision of social housing to Roma and other disadvantaged and marginalized individuals and families** and deteriorating standard of living of those living in social housing.³³ However, no measures were taken to address these areas of concern so far.

³⁰ Official Gazette of Republic of Serbia, No. 104/2016 and 9/2020.

³¹ More information about the complaint can be found here: <https://www.ebrd.com/work-with-us/projects/ipam/2021/01.html>.

³² UN Human Rights Unit in Serbia, Social Inclusion and Poverty Reduction Unit of the Government of the Republic of Serbia, Mapping of Substandard Roma Settlements According to Risks and Access to Rights in the Republic Of Serbia with Particular Attention to the COVID-19 Epidemic, December 2020, available at: http://sociojalnoukljucivanje.gov.rs/wp-content/uploads/2020/12/Mapiranje_podstandardnih_romskih_naselja_prema_rizicima_i_pristupu_pravima_sa_narocitim_osvrtom_na_COVID-19.pdf.

³³ Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Serbia, 6 April 2022, paras 56-57.