

CONTRIBUTIONS TO REPORTS

# **Written Contribution to the European Commission 2024 Annual Report on Serbia**

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## Introduction

The A 11 – Initiative for Economic and Social Rights is a non-profit, non-partisan and non-governmental organisation which promotes and protects the rights of individuals from vulnerable, marginalised and discriminated groups, with a particular focus on economic and social rights. In this document, prepared as a contribution to the European Commission 2024 Annual Report on Serbia, the focus is on the following issues: Denial of parental and child allowance to Roma children, Gaps in the provision of free legal aid, Implementation of the Law on Gender Equality, Insufficient implementation of the impact assessment duty from the Law on Prohibition of Discrimination, The situation of health mediators, Lack of accountability for discriminatory statements against Roma, Lack of institutional support for the improvement of social protection and the introduction of semi-automated decision-making processes in social protection.

### **Denial of parental and child allowance to Roma children**

The Law on Financial Support to the Family with Children (hereinafter: LFSFC) remains in direct contravention of efforts to ensure the social inclusion of Roma and with recommendations Serbia received from various human rights treaty bodies, and there are no efforts for its improvement in that regard. The Article 25 of the Law denies parental allowance to the most vulnerable Roma children by conditioning it with school attendance and immunization. Although conditions regarding immunization and school and pre-school attendance, on the face of it, are neutral, they have a disproportionate impact on vulnerable Roma children.

All available data points to the existence of a gap between Roma and non-Roma children in school and pre-school attendance, as well as in immunization coverage. For example, 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.<sup>1</sup> 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.<sup>2</sup> 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%.<sup>3</sup> School attendance rates for children from Roma 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

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1 UNDP, Roma at glance, Serbia, available at: [https://www.eurasia.undp.org/content/dam/rbec/docs/Factsheet\\_SERBIA\\_Roma.pdf](https://www.eurasia.undp.org/content/dam/rbec/docs/Factsheet_SERBIA_Roma.pdf), page 2.

2 Ibid.

3 UNICEF and Statistical Office of the Republic of Serbia, Serbia, Multiple Indicator Cluster Survey 2019 and Serbia Roma Settlements Multiple Indicator Cluster Survey 2019, Survey findings report, Belgrade, October 2020, xvii; hereinafter: MICS 2019, available at: <https://www.unicef.org/serbia/media/16726/file/MICS%20Multiple%20Indicator%20Cluster%20Survey%20for%202019.pdf>

the general population are high, while these rates are significantly lower for children coming from Roma settlements.<sup>4</sup> As pointed out in previous European Commission reports for Serbia, school drop-out rates remain high for Roma children, especially for Roma girls.<sup>5</sup> 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%).<sup>6</sup> 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.<sup>7</sup>

**In 2022, the UN 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.<sup>8</sup> The Committee recommended Serbia to 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.<sup>9</sup>** 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.

**Limiting the number of children eligible for parental and child allowance is another condition that affects disproportionately most vulnerable Roma children and families.** Families are eligible to receive parental and child allowance for up to four children, apart from several exceptional cases. Insights into the more detailed characteristics of families with five or more children show that the Roma families are making a significant number of these families, which makes them particularly affected by the limitation regarding number of children who can receive the parental and child allowance. It should be noted that although this limitation raises the issue of discrimination of Roma, there were no discussions about the amendments to the Law in this regard.

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4 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)

5 European Commission, Serbia 2022 Report, page 47.

6 Serbia Multiple Indicator Cluster Survey 2019 and Serbia Roma Settlements Multiple Indicator Cluster Survey 2019, Statistical Snapshot, page 35. See also European Commission, Serbia 2021 Report, page 104.

7 MICS 2019, xv.

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

9 Ibid, para. 51 (b).

In order to ensure social inclusion of Roma, in the field of financial support to families with children Serbia should:

- **amend the Law on Financial Support to Family with Children with a view to remove discriminatory conditions from Article 25 which excludes marginalized Roma children and prevents them from exercising the right to parental allowance;**
- **abandon the limitation on the number of children who are eligible for the children and parental allowance which deny these entitlements to the most vulnerable families and children.**

### **Gaps in the implementation of the Law on Free Legal Aid**

Implementation of the Law on Free Legal Aid is still inadequate, marked by the insufficient and uneven provision of free legal aid in local free legal aid services. Persons eligible for free legal aid, particularly those from the most vulnerable and marginalized groups, are often unaware of the procedure for accessing free legal aid, these procedures are lengthy and without real prospect of the free legal aid provision.

Furthermore, the material census for eligibility for free legal aid is set too low, leaving many vulnerable citizens without access to free legal aid. The procedure for submitting a request for free legal aid, and even the form of this request, are complicated and not adjusted to the needs of most vulnerable citizens. Additional challenges are linked with the evidence required by the applicants, particularly when citizens applying for free legal aid are requested to provide evidence which competent free legal aid service should obtain *ex officio*.<sup>10</sup>

In order to ensure full access to free legal aid, Serbia should:

- **improve the capacities of the free legal aid system, and increase the level of legal information and general information of citizens on the existence of the Law on Free Legal Aid.**
- **consider amending the Law on Free Legal Aid in order to provide CSOs specialized in providing free legal aid services to the most vulnerable citizens being recognized as providers of free legal aid.**

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<sup>10</sup> Research conducted in ten municipalities from April until December 2023 with ten free legal aid providers shows that they are still facing problems in the implementation of the Law and provision of free legal aid – mainly related to short deadlines, insufficient number of personnel or lack of established free legal aid service. More information: <https://www.a11initiative.org/wp-content/uploads/2024/01/Kljucni-nalazi-o-primeni-ZBPP-u-2023-godini.pdf>

## Implementation of the Law on Gender Equality

The Law on Gender Equality envisages the publication of reports about the progress in achieving gender equality. This provision of the Law facilitates the compilation of data from local to national levels, categorizing and presenting it by gender and age.<sup>11</sup> The objective of this exercise is to provide accurate information about the state of gender equality within a specific institution. Because of that, information collected in this report serves as an indicator of the progress achieved and also supports the preparation of different activities and measures aimed at narrowing gender gap and achieving equal rights for both men and women.

Despite the importance of these reports, there have been delays in their publication - the report for 2022 was postponed for nine months and finally published only in December 2023. It could be observed that there is a lack of participation of private sector in this exercise, with about half a million businesses failing to comply with the reporting obligations.<sup>12</sup>

This lack of implementation undermines gender equality, reflected in Serbia's drop from 54th to 77th place on the WEF list regarding women's involvement in economic life.<sup>13</sup> In addition, there is also insufficient utilization of the funds earmarked for gender equality, i.e. in 2022, only 28.5% of budget funds designated for gender equality activities were utilized. Political reluctance and external pressures, such as those from some religious communities and the right-wing political parties, also hinder the fulfilment of the Law on Gender Equality.

Having all this in mind, Serbia should:

**→improve the measures for strengthening the implementation of the Law on Gender Equality.**

### **Challenges in implementation of the impact assessment duty prescribed in the Law on Prohibition of Discrimination**

Amendments to the Law on Prohibition of Discrimination from 2021 introduced the obligation on public bodies assess compliance of proposed regulations and public policies

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<sup>11</sup> The Government report on achieving gender equality in the Republic of Serbia serves as a synthesis of data collected in 16 areas, outlining general and specific measures aligned with Articles 65 and 66 of the Law on Gender Equality. This Law mandates data recording and reporting to the Ministry of Human and Minority Rights and Social Dialogue by public authorities, employers, gender equality bodies in local self-government units, political parties, and trade union organizations.

<sup>12</sup> Report on the achievement of gender equality in the Republic of Serbia for 2022, available at:

<https://www.minljmpdd.gov.rs/doc/izvestaji/izvestaj-o-ostvarivanju-rodne-ravnopravnosti-uRSza2022godinu.pdf>

<sup>13</sup> Global Gender Gap Report 2023, World Economic Forum, <https://www.weforum.org/publications/global-gender-gap-report-2023/in-full/benchmarking-gender-gaps-2023/>

with the principle of equality, by giving special consideration to the most socio-economically vulnerable persons and groups.<sup>14</sup> Furthermore, to facilitate the implementation of the impact assessment duty, the Commissioner for the Protection of Equality in Annual report for 2023 proposed a **recommendation for public authorities to implement impact assessment when adopting regulations or policies**.<sup>15</sup> However, there are still **no examples of an adequately conducted impact assessment duty in practice** and additional efforts are needed to ensure proper implementation and effectiveness of the impact assessment obligation. In order to reduce inequalities associated with socioeconomic vulnerability, ensure equal access to rights and services for disadvantaged and marginalized individuals and groups, and ensure full implementation of the Law on the Prohibition of Discrimination, Serbia should:

**→ intensify its efforts to ensure that public authorities conduct an equality test when preparing new regulations or policies that have impact on socio-economically vulnerable groups and individuals, as provided for in article 14(4) of the Law on Prohibition of Discrimination.**

## **The situation of Roma health mediators**

The goal of introducing health mediators into the health system of the Republic of Serbia was to improve access to health, especially for Roma women and children, improve the availability of their health care, raise the level of information about health, and reduce inequalities between the general and Roma population. In addition to enhanced access to health care, health mediators also contributed to the introduction of Roma children into the education system, the effective realization of the rights of Roma in the field of social protection and employment, and in general improvement of their access to basic economic and social rights. For this reason, health mediators are often highlighted as a significant step forward for social inclusion of Roma.

However, even though the Strategy for the Social Inclusion of Roma Men and Women for the period 2022-2030 states that the institute of health mediators is a key factor in improving Roma access to health care, their working status remains to be permanently unresolved. Namely, these female workers until today did not manage to effectively realize their labour rights. Apart from the fact that their job is not systematized, which leads to their precarity, **their work engagement is regulated by service contracts. This type of engagement deprives them of entitlements they would have in the official**

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<sup>14</sup> The impact assessment is prescribed in the Article 14 (4) of the Law on the Prohibition of Discrimination.

<sup>15</sup> The Commissioner for the Protection of Equality, Regular Annual Report of the Commissioner for Protection of Equality for 2023, available at: <https://ravnopravnost.gov.rs/rs/izvestaji/>



**employment status**, such as annual leave, sick leave, transportation costs, daily wages, etc. This issue sometimes leads to the absurd situation that Roma health mediators who have been helping many Roma individuals to realize their right to health insurance are now facing the same problem. In addition, health mediators work for a compensation in the amount of 22,000 dinars (less than 190 EUR), which is less than half of the prescribed minimum wage in the Republic of Serbia. Even though more than ten years passed since the introduction of this work modality, the relevant ministry did not allocate resources to improve the working status of health mediators.

In order to improve the situation of health mediators, Serbia should:

**→take additional steps to improve labour rights of Roma health mediators by providing them with official employment status and ensuring their labour rights are upheld.**

## **Discrimination and hate crimes against Roma**

Bearing in mind the case of the **mayor of Belgrade, Aleksandar Šapić**, which we reported on in the contribution for the year 2023<sup>16</sup>, we would like to point out that the trend of discriminatory statements against Roma continues to increase, and that there were no adequate sanctions for such actions. Namely, in February, during the constitutive session of the National Assembly, member of the National Assembly, **Branimir Nestorović** called his opposition colleagues derogatory names that are offensive and humiliating for the Roma, thereby encouraging racism and discrimination. After the condemnation from civil society, he decided to post the video of his statement on his social media, sending the message that he stands by his position. The spread of discriminatory statements against Roma has wider negative effect on their position in Serbia and should be taken into account with grave concern. Therefore, we would like to emphasize that there is a concerning trend of the **lack of accountability for such discriminatory remarks in public sphere, especially when they are coming from high-level political figures.**

On 10 February 2024, in informal settlement Vuka Vrčevića in Belgrade, unidentified police officers made a violent raid, completely masked, with weapons and batons. On that occasion, in the period between 8 and 9 PM, they violently entered the homes of the Roma living in this settlement, without first inviting them to come out themselves and without search warrants. As they made their rounds, the unidentified police officers were beating the residents with rubber batons, including women and children. During the whole time, police officers were yelling severe racial insults and threatening the residents that they

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16 Among other things, the Mayor of Belgrade accused all residents of informal settlements of stealing, begging, not wanting to work, as well as destroying public property in the social apartments and by these statements he grossly violated the provisions of the Law on Prohibition of Discrimination, as well as the Law on the Protection of the Rights and Freedoms of National Minorities.



will “throw them into Danube”. Roma living in this settlement expressed the fear of the police and anxiety that they would return to the settlement. One resident was injured, his injuries are documented, and the criminal complaint against unidentified police officers for the criminal act of torture were submitted to the First Basic Public Prosecutors Office in Belgrade.

In order to improve protection of Roma from discrimination, stigmatisation, hate speech and hate crimes, the State should:

→ **ensure full effectiveness of accountability mechanisms in cases of discrimination, stigmatisation, hate speech and hate crimes, and ensure that high level political figures are sanctioned in cases of Roma discrimination.**

### **Lack of institutional support for the improvement of social protection and the introduction of semi-automated decision-making processes in social protection**

There is a lack of **effective policy and institutional capacities for social protection, social inclusion and poverty reduction** in Serbia. Social Inclusion and Poverty Reduction Unit (SIPRU) operated within the Office of the Prime Minister with the mandate to strengthen the Government’s capacities to develop evidence-based social inclusion policies and to coordinate and monitor their implementation. However, this Project Unit was dissolved on 31 December 2021, when the project that financed the work of the unit expired and the Government failed to continue its financing. At the same time “Serbia is among Europe’s top ten least equal countries, in terms of income. In 2021, the Gini coefficient for income was 33.3, and the wealthiest 20% of the population had six times higher income than the poorest 20%.<sup>17</sup> In 2020, about 15% of employees in Serbia received the equivalent of the local minimum wage”.<sup>18</sup>

With continued implementation of the Law on Social Card, which came into force in March 2022, more than 44.000 persons lost their financial social benefits, without any noticeable improvements in poverty eradication or decreased need for social assistance. Although the Law aimed to automate social protection procedures for more efficient and proactive social services and fairer distribution of social assistance, it lacks safeguards to protect human rights such as the right to privacy, fair process, and principles of human dignity and non-discrimination. The system’s proactivity is primarily focused on reducing or terminating benefits. In addition to that, the beneficiaries are oftentimes precluded from

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<sup>17</sup> According to the Statistical Office of the Republic of Serbia in 2022.

<sup>18</sup> UNICEF Serbia, Development of Poverty Projections Based on the potential impact of Conflict in Ukraine on the most Vulnerable Groups in Serbia, with a Particular Focus on Children, p. 13, 2023.

meaningful participation in the process, where they would be able explain their personal situation to social workers. Most persons who sought assistance from the A 11 Initiative due to the loss or reduction of social benefits resulting from the implementation of the Law on Social Card, belonged to the Roma minority. Errors in income calculations, often affecting Roma engaged in collecting secondary raw materials, led to the unjustified termination of their financial social assistance.

Semi-automation of procedures in the social welfare system has far-reaching consequences for vulnerable citizens and their rights to social security, equality, privacy and fair proceedings. The described situation and functioning of the social card system also violates the Council of Europe Convention on Protection of Individuals with Regard to the Processing of Personal Data, stipulating in Article 9 that individuals have the right not to be subject to a decision about automated processing significantly affecting them without their views being taken into account.<sup>19</sup>

Lack of transparency and safeguards related to the protection of privacy rights are other serious human rights issues brought by the Social Card Registry. The Law introduced disproportionate processing of up to 135 personal data of beneficiaries and persons related or connected to them. The extensive processing of data of beneficiaries of the social protection system, as laid out in the Social Card Law, is contrary to the principles of data minimization in personal data protection, the right to social protection, as well as the prohibition of discrimination, particularly since there is a large Roma population in the social protection system.

Also, it is important to note, that contrary to the Law on Free Access to Information, the Ministry of Labour, Employment, Veteran and Social Affairs refuses to publish the algorithm and the source code behind the Social Card Registry. The procedure for access to the information is unreasonably long, as the A 11 Initiative applied for this information in June 2022, and the Commissioner for Information of Public Importance and Personal Data Protection already ordered the Ministry to reassess the application twice – in December 2022, and in February 2024, but the Ministry continued to reject access to information, with the justification that goes beyond the scope of the Law.

In order to improve the protection of most vulnerable population from discrimination in their access to social benefits, Serbia should:

**→ suspend the implementation of the Law on Social Card, abandon semi-automation in the social protection system and ensure that adequate safeguards are in place to prevent violations of rights to non-discrimination, due process of law and privacy rights.**

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<sup>19</sup> Council of Europe, Convention for the Protection of Individuals with Regard to the Processing of Personal Data, <https://rm.coe.int/convention-108-convention-for-the-protection-of-individuals-with-regar/16808b36f1>

## Forced evictions and Roma access to adequate housing

Although in 2016 Serbia adopted the new Law on Housing and Building Maintenance which, for the first time regulated the resettlement procedure, there were no cases where the authorities fully complied with the provisions of this Law.

By addressing the European Court of Human Rights, relevant domestic bodies and independent institutions, the A 11 Initiative prevented forced eviction in the informal Roma settlement "Antena" in Belgrade, scheduled for the end of March 2023. This settlement, located in the Municipality Novi Beograd, was under the threat of forced eviction. About forty families, of which the majority are internally displaced from Kosovo, have been living in this settlement for years, when they received a decision from the City Communal Inspection, with order to demolish their houses within 24 hours, labelling them as "municipal waste". They were **not offered alternative accommodation**.

After being informed about the start of the forced eviction, the A 11 Initiative sent an appeal for urgent reaction to a number of competent institutions, including the Protector of Citizens, Commissioner for the Protection of Equality, Ministry of Human and Minority Rights and Social Dialogue, and Secretariat for Social Affairs of the City of Belgrade. Due to the danger of violating Article 3 of the European Convention on Human Rights, which grants protection against inhuman and degrading treatment, as well as the lack of an effective legal remedy at the national level, Initiative A 11 submitted a request to the European Court of Human Rights for the imposition of a interim measure, which this court adopted and prevented the announced forced eviction. The Commissioner for the Protection of Equality, acting upon the appeal, sent the recommendation of measures to the City Municipality of Novi Beograd, to refrain from the forced eviction.<sup>20</sup>

This is just one of the cases of forced eviction of marginalized individuals and communities in Belgrade, where state institutions are trying to bypass national and international legislature and standards. It is an ongoing problem, and more than a decade ago, there were similar attempts by the Belgrade City Administration to carry out the forced evictions of Roma men and women, which then resulted in the condemnation of various international bodies for the protection of human rights, especially the ones working under the auspices of the United Nations.

The right to adequate housing guarantees the security of tenure even in cases where the facilities are non-standard or built without the necessary permits, which is the reason why this attempt of forced eviction is in direct contradiction with the provisions of Article 11 of

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<sup>20</sup> Commissioner for the Protection of Equality, Recommendation, more information: <https://ravnopravnost.gov.rs/rs/243-23-preporuka-mera-go-novi-beograd-da-se-uzdrzi-od-prinudnog-iseljavanja-stanovnika-i-stanovnica-romskog-naselja-antena/>

the International Covenant on Economic, Social and Cultural Rights, alongside with violation of the domestic law.

After the indication of interim measures of the European Court of Human Rights, the Municipality Novi Beograd suspended the decision to remove the residential objects from the settlement, on the basis of the International Covenant on Economic, Social and Cultural Rights. This presents one of the very rare examples of **direct implementation of international human rights norms, especially the norms from the ICESCR in Serbia.**

Bearing in mind this particular case, it is important to emphasize that 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.<sup>21</sup>

However, Serbia has 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. However, no measures were taken to address these areas of concern so far.

In order to improve access to adequate housing for Roma, Serbia should:

**→adopt public policies aimed at the improvement of access to housing for most vulnerable population, including Roma, and secure sufficient resources for the improvement of informal Roma settlement and the provision of affordable housing for most vulnerable population.**

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21 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://socijalnoukljucivanje.gov.rs/wpcontent/uploads/2020/12/Mapiranje\\_podstandardnih\\_romskih\\_naselja\\_prema\\_rizicima\\_i\\_pristupu\\_pravima\\_sa\\_narocitim\\_osvrtom\\_na\\_COVID-19.pdf](http://socijalnoukljucivanje.gov.rs/wpcontent/uploads/2020/12/Mapiranje_podstandardnih_romskih_naselja_prema_rizicima_i_pristupu_pravima_sa_narocitim_osvrtom_na_COVID-19.pdf).