

CONTRIBUTIONS TO REPORTS

# **Written Contribution to the European Commission 2023 Annual Report on Serbia**

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## Table of Contents

Introduction.....	3
Denial of parental and child allowance to Roma children.....	3
Insufficient implementation of the impact assessment duty from the Law on Prohibition of Discrimination.....	5
The situation of health mediators .....	6
Lack of accountability for discriminatory statements against Roma.....	6
Lack of institutional support for the improvement of social protection and the introduction of automated decision-making processes in social protection .....	7

## Introduction

1. 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 2023 Annual Report on Serbia, the focus is on the following issues: discriminatory effects of the Law on Financial Support to the Family with Children, lack of implementation of the Law on the Prohibition of Discrimination, the situation of Roma health mediators, the lack of accountability in cases of discrimination of Roma, and the lack of institutional mechanisms for social inclusion and poverty reduction.

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

2. 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. 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.
3. 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. Thus, a 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 the general population are high, while these rates are significantly lower for children

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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%206%20Multiple%20Indicator%20Cluster%20Survey%20for%202019.pdf>

coming from Roma settlements.<sup>4</sup> As pointed out in the European Commission Report for Serbia for 2022, 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>

4. **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.
5. **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. Although Roma make up to 2.05 % of the population according to the 2011 Census, their share in families with five or more children is 32.66 %. Furthermore, out of this number, in 782 families one or both parents are illiterate, while there are 1,024 families in which both parents have no school education or have completed a maximum of three grades of primary school.
6. These insights into the more detailed characteristics of families with five or more children show that the most vulnerable families are particularly affected by the limitation regarding number of children who can receive the parental and child allowance. In addition, having in mind the ethnicity of parents with five or more children, the mentioned limitation raises the issue of discrimination.

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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).



7. In order to ensure social inclusion of Roma, in the field of financial support to families with children Serbia needs to:
8. **→ 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;**
9. **→ 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.**

### **Insufficient implementation of the impact assessment duty from the Law on Prohibition of Discrimination**

10. Amendments to the Law on Prohibition of Discrimination from 2021 introduced the obligation on public bodies assess compliance of proposed regulations and public policies with the principle of equality, by giving special consideration to the most socio-economically vulnerable persons and groups.<sup>10</sup> This is an positive novelty in Serbian anti-discrimination framework which, if applied properly, minimizes possibility of adopting policies or legislating in a way that infringes human rights of the most vulnerable citizens. It is pertinent to mention that the UN Committee on Economic, Social and Cultural Rights recommended Serbia to take measures necessary to ensure that public authorities conduct an equality test when preparing new regulations or policies that have impact on the enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups, as provided for in the Law on Amendments to the Law on Prohibition of Discrimination. Furthermore, to facilitate the implementation of the impact assessment duty, in December 2022, the Commissioner for the Protection of Equality sent **recommendation of measures to public authorities which have obligation to implement this impact assessment.**<sup>11</sup> However, there are **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.
11. 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, the State should particularly:
12. **→ 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.**

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<sup>10</sup> The impact assessment is prescribed in the Article 14 (4) of the Law on the Prohibition of Discrimination.

<sup>11</sup> The Commissioner for the Protection of Equality, Recommendation of Measures, no. 021-01-1038/2022, 9 December 2022.

## **The situation of health mediators**

13. The goal of introducing health mediators into the health system of the Republic of Serbia was to improve Roma 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 Roma social inclusion.
14. 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 employment status**, such as annual leave, sick leave, transportation costs for coming and going from work, daily wages, etc. This issue sometimes leads to the absurd situation that Roma women 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 21,000 dinars (less than 180 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 relevant ministry did not allocate resources to improve the working status of health mediators.
15. In order to improve the situation of health mediators, the State should:
16. **→ take concrete steps to provide health mediators with sufficient technical and financial resources for their work, compensate them fairly and improve their working conditions by offering them work contracts.**

## **Lack of accountability for discriminatory statements against Roma**

17. On 12 March 2023, the **mayor of Belgrade, Aleksandar Šapić, made discriminatory remarks against Roma in Belgrade.** Answering the journalists' questions, he insulted and humiliated members of the Roma national minority, which represents another in a series of cases of racism and discrimination against the Roma. 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. He also added that Roma men and women are the ones who make their social inclusion



impossible because they "choose to live this way". 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. Having this in mind, A 11 - Initiative for Economic and Social Rights filed a complaint against the Mayor of Belgrade to the Commissioner for the Protection of Equality on 15 March 2023, while other organisations filed criminal charges against the mayor of Belgrade. However, it should be noted 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.**

18. In order to improve protection of Roma from discrimination, stigmatisation, and hate speech, the State should:
19. → ensure that accountability mechanisms in cases of incidents are in place and 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 automated decision-making processes in social protection**

20. Since January 2022, **Serbia does not have effective institutional capacities for social protection, social inclusion and poverty reduction.** 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>12</sup> In 2020, about 15% of employees in Serbia received the equivalent of the local minimum wage".<sup>13</sup>
21. The lack of strong institutions responsible for social inclusion and poverty reduction and the lack of the improvement of legal framework, especially the Law on Social Protection, negatively affects the most vulnerable population. In addition to that, the introduction of the **Law on Social Card and its implementation decreased the number of beneficiaries of social assistance for at least 27,000 individuals.**<sup>14</sup> This law was adopted with one of the aims to introduce the "automation of procedures and processes related to acting in the field of social protection." In addition to the introduction of disproportionate processing of personal data of beneficiaries of financial social assistance

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<sup>12</sup> According to the Statistical Office of the Republic of Serbia in 2022.

<sup>13</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.

<sup>14</sup> Data obtained through the freedom of information inquiry, on file with the A 11 – Initiative for Economic and Social Rights.

and persons related to them (the Law prescribed that the Social Card registry processes up to 140 personal data), its implementation is preventing the most vulnerable individuals from protection their rights. If the Registry, during the data processing finds that the beneficiary does not meet the criteria for social assistance, this person cannot take part in the process and explain the reasons behind this discrepancy between the criteria and his personal situation, as they are not interviewed in the process or provided with the guarantees of due process, as prescribed by the Law on General Administrative Procedure. Even though the automated decision-making introduced by the Law is in contradiction with the Personal Data Protection Law, Art. 9 of the International Covenant on Economic, Social and Cultural Rights, constitutional guarantees and the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms, its implementation is still not suspended and the procedure for its constitutional review is ongoing at the Constitutional Law. In the meantime, the relevant Ministry of Labour, Employment, Veteran and Social Affairs refuses to publish the algorithm behind the Social Card registry and the source code of its application.<sup>15</sup>

22. In order to improve the protection of most vulnerable population from discrimination in their access to social benefits, the State should:
23. **→ improve the existing legal framework in line with its human rights obligations, particularly the Law on Social Protection, suspend further implementation of the Law on Social Card, and invest sufficient technical, financial and other resources in the improvement of its institutional framework for poverty reduction and social protection.**

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<sup>15</sup> The A 11 Initiative already appealed the decision of the Ministry not to make the algorithm and the source code public and the Commissioner adopted its appeal, but instead of ordering the Ministry to deliver this information, decided to refer it to re-decision process which is still ongoing.