



# **ALTERNATIVE REPORT TO THE UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD**

**For the 101st pre-session**

A11 – INITIATIVE FOR ECONOMIC AND SOCIAL RIGHTS



INITIATIVE FOR  
ECONOMIC AND  
SOCIAL RIGHTS

## **Introduction**

A 11 – Initiative for Economic and Social Rights (hereinafter: A 11 Initiative) is a non-profit, non-partisan and non-governmental organization that promotes and protects the human rights of individuals from vulnerable, marginalized, and discriminated groups, with a particular focus on economic and social rights. Established in 2018, the A 11 Initiative contributes to the better protection of economic and social rights, and to the improved understanding of the state's obligation to protect, promote and fulfil these rights through a combination of legal support and strategic litigation, advocacy, research, education, coalition and capacity-building and partnership. Since its establishment, the A 11 Initiative has provided counselling to over 2,000 individuals and has written over 13 submissions to international mechanisms for the protection of human rights. The A 11 Initiative is a member organization of the Platform of organizations for cooperation with the UN mechanisms for human rights and has been granted with the ECOSOC consultative status. A 11 Initiative welcomes the opportunity to provide the Committee on the Rights of the Child (hereinafter: CRC) with information in relation to the Republic of Serbia during its review of the State report. The submission is focused on the following issues:

### **I Denial of parental allowance to Roma children**

### **II Limiting the number of children entitled to child and parental allowance**

### **III Impact of the Law on Social Card on marginalized families**

### **IV Access to health care and health insurance for vulnerable Roma children and pregnant women**

### **V Risk of family separation in cases of forced evictions**

## General principles

### Non-discrimination and the best interest of the child

#### Discriminatory conditions for parental and children allowance

In Concluding observations for Serbia from 2017, the Committee expressed concern about the persistent discrimination against Roma children in all areas of life. The concern was also raised because Roma children, among others, continue to face discrimination with regard to access to education, health care, and adequate housing.<sup>1</sup> The Committee also recognized that equity gaps, combined with financial constraints and inadequate health insurance coverage affecting vulnerable groups, continue to hinder access to basic health-care services,<sup>2</sup> while noting also 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, early births and low rates of immunization against childhood diseases, and that significant challenges in regular and timely vaccine procurement lead to delays in immunization coverage for children, particularly Roma children.<sup>3</sup> The Committee also expressed concerns about high levels of malnutrition and stunting affecting the Roma community, with poverty and social isolation further exacerbating the situation.<sup>4</sup>

**Despite the alarming data on the position of Roma children and the clear need for additional measures to improve their status, the Law on Financial Support to Families with Children (LFSFC) discriminates against Roma children.** Article 25 of the Law imposes additional conditions for parental allowance for a newborn child, requiring that all children in the family be fully and timely vaccinated and regularly attend elementary school and mandatory preschool education. Although these conditions appear neutral at first glance, they disproportionately affect vulnerable Roma children.

**Parental allowance is intended as a form of support for families with children following the birth of a child.** However, this support is **unjustly conditioned and denied based on factors unrelated to the newborn itself, such as the regular school/preschool attendance of all other children in the family and their timely immunization.**

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1 Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Serbia, CRC/C/SRB/CO/2-3, 7 March 2017, paras. 22 (a) and (b).

2 Ibid, Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Serbia, op. cit., para. 45 (a).

3 Ibid, para. 45 (b).

4 Ibid, para. 45 (c).

**All data point to the existence of a gap between Roma and non-Roma children in (pre)school attendance, as well as in immunization coverage.** Thus, regional UNDP research on Roma communities indicates that approximately one in six marginalized Roma children of school age still do not participate in the education system.<sup>5</sup> The completion rate of compulsory education among Roma girls is only 57%, compared to 93% among non-Roma girls and 95% among non-Roma boys.<sup>6</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>7</sup> The completion rates for primary education in the general population are high, while these rates are significantly lower for children coming from Roma settlements.<sup>8</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>9</sup> Immunization coverage is also lower among Roma children – an issue raised also by the CRC in the previous reporting cycle. 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>10</sup>

The report submitted by Serbia to the European Committee on Social Rights in 2023 states that “according to 2019 data, 85,4% of Roma children are enrolled in primary school.”<sup>11</sup>

European Commission, in its reports on Serbia for 2024, warns that “school dropout rates remain high, especially for Roma girls” and that “Roma pupils are still overrepresented in special-needs schools and classes.”<sup>12</sup>

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5 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.

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

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

8 Serbia Multiple Indicator Cluster Survey 2019 and Serbia Roma Settlements Multiple Indicator Cluster Survey 2019, Statistical Snapshoot, 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 European Committee of Social Rights, Conclusions 2023, Serbia, p. 37, available at:

<https://rm.coe.int/conclusions-2023-serbia-en-2766-8227-4057-1/1680aedd1a>

12 European Commission Report, Serbia, 2024, p. 43.

Presented data on school and preschool attendance and immunization among Roma and non-Roma children clearly suggest that conditions for parental allowance have a disparate impact on Roma children. Roma children who remain outside the education system and who are not covered by immunization are among the most marginalized in Serbia, and conditions for parental allowance are putting them in an even worse situation and increasing the gap between Roma and non-Roma children.

It is important to recall that in March 2022, the **United Nations Committee on Economic, Social and Cultural rights expressed its concerns about certain conditions attached to social assistance benefits, which effectively deny access by certain disadvantaged and marginalized groups to social security benefits.**<sup>13</sup> These include the **conditioning of parental allowances on certain criteria, such as school attendance and vaccination of children, which has a significant discriminatory effect on Roma families.**<sup>14</sup> The Committee recommended that the **State party review the conditions attached to social assistance benefits, particularly to the parental allowance and financial social assistance, with a view to removing the conditions that are discriminatory or have a discriminatory effect and contradict human rights norms.**<sup>15</sup>

However, no action has been taken on these recommendations by the UN CESCR explicitly referring to Article 25 of the LFSFC. On the contrary, in the procedure of normative review of the LFSFC, **the Constitutional Court ignored the Committee`s recommendations and rejected the initiative for assessment of constitutionality of the conditions for parental allowance, without assessing whether these conditions, which disproportionately affect Roma children, constitute indirect discrimination.**

Moreover, **the Constitutional Court refused to examine whether the denial of parental allowance aligns with the principle of the best interests of the child,** stating that the holder of this right is the parent. The Court further asserted that, for this reason, parental allowance cannot be directly linked to the provisions of the Convention on the Rights of the Child. This stance also contradicts the Court's **own previous rulings,** in which it clearly acknowledged that **the child is the ultimate beneficiary of parental allowance.**<sup>16</sup> **Children are the ultimate beneficiaries** of this financial

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13 Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Serbia para. 50.

14 *Ibid.*

15 *Ibid.*, para. 51 (b).

16 Constitutional Court of Serbia, IUz-40/2012, 11 July 2014. In this decision, the Court explained that the final beneficiary of the right to parental allowance is a child and explained that parental allowance is primarily directed toward meeting the basic needs of a child.

support. Therefore, their **best interests** must be considered when assessing the disputed provisions of the law conditioning the right to financial support intended for newborns. **Penalizing children** from families whose children are not completely or timely covered by the immunization or do not attend school regularly, **contradicts the principle of the best interests of the child**, as enshrined in the **CRC**.

Parental allowance, as a form of support for families with children, has the potential to not only meet children's basic needs but also reduce discrimination against Roma children. However, by conditioning this form of support with school attendance and complete immunization coverage – conditions that many vulnerable Roma children find challenging to meet without additional assistance – the state is exacerbating the existing gap between Roma and non-Roma children.

The submitting organization recommends the Committee to call upon the Serbian Government:

- **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.**
- **To take measures to fulfil recommendations by the UN CESCR concerning parental allowance and to prevent discrimination of vulnerable Roma children in the access to parental allowance and other forms of support for families with children.**

### **Limiting the number of children entitled to child and parental allowance**

Limiting the number of children eligible for parental and child allowance is another condition that disproportionately affects 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. This limitation of the number of children who are eligible for parental and child allowance disproportionately affects the most vulnerable families with children. According to data from the Statistical Office of the Republic of Serbia, the most recent census in 2022 recorded only 5,516 families with more than five children in Serbia. Additional data analysis from the previous census, which reported a similar number of families with five or more children (5,264 in 2011 and a slightly higher 5,516 in 2022), revealed that two-thirds of these families have at least one parent who identified as Roma. Additionally, data on literacy, housing conditions, and employment indicate that these families are particularly economically and socially vulnerable. In Concluding Observations on Serbia in previous reporting cycle, the CRC emphasized

that families with four or more children and families with children with disabilities are at higher risk of experiencing multidimensional poverty.<sup>17</sup>

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 limited 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.

Although Roma make up approximately 2 % of the population, according to the 2022 Census, they make up approximately one-third of families with five or more children. Since the number of families with five or more children is not large, the abolition of this restriction would not require huge budget expenditures. Above all, it would lead to the abolishment of the seemingly neutral norms and limitations that disproportionately affect the most vulnerable Roma families. However, despite these arguments, the competent Ministry refused to remove this restriction during the last three revisions of the LFSFC, including the most recent one in 2024.

**Submitting organization urges the Committee to recommend the State:**

- **To 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;**

**Principle of non-discrimination, standard of living and the Law on Social Card**

For an assessment of the situation concerning Roma families and non-discrimination, it is crucial to examine the Law on Social Card,<sup>18</sup> which has created numerous barriers to accessing social benefits, disproportionately affecting Roma due to their high representation in the welfare system. In addition to problems in access to social benefits, the social card system raised various concerns related to the right to privacy, non-discrimination and fair process.

In March 2022, the Law on Social Card came into force, with the proclaimed aim to introduce the automation of procedures and processes related to acting in the field of social protection, more efficient realization of rights and social protection services, fairer distribution of social assistance and improvement of the efficiency and proactivity of social protection authorities' work. However, from the beginning of its implementation in March 2022, until February 2025, more than **55,000 vulnerable individuals lost the status of beneficiaries of the social system**. A 11 Initiative

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<sup>17</sup> CRC, Concluding Observations on Serbia, 2017, para. 51(a).

<sup>18</sup> The Official Gazette of RS, no. 14/2021.

casework shows that many have been excluded from financial assistance without adequate explanation, further deepening poverty and social marginalization.

The proclaimed proactivity of the social card system is present only when it comes to tracking changes that may lead to the reduction or termination of benefits, without sufficient safeguards to prevent violations of human rights such as the right to privacy, fair process, and principles of human dignity and non-discrimination. If a system finds that a beneficiary no longer meets the condition for social benefits, the system does not enable him/her to adequately participate in the process and explain his/her situation before termination of benefits. Therefore, the social card system denies social benefits, but also **due process of law**, in stark contradiction with the declared goal of achieving a fairer distribution of social benefits. Another declared goal, the improvement of the efficiency of the social system, may not take precedence over the right of social beneficiaries to be heard before the termination of benefits, intended to meet the basic demands of subsistence. Unfortunately, automation of social benefits leads to this outcome.

The introduction of automation in a welfare system and in deciding on requests for financial social assistance, which has already been assessed as manifestly inadequate,<sup>19</sup> exacerbated existing flaws and structural discrimination.<sup>20</sup> The Social Card Registry, utilizing automation to consolidate applicant's data from a range of government databases, relies on inaccurate earnings and assets data, leading to flawed outcomes.<sup>21</sup> The consequences of this flawed system are particularly severe for Roma families, many of whom already face extreme poverty, social exclusion, unstable housing conditions, and systemic barriers to employment and education. By hindering access to social protection, the Social Card system undermines Serbia's obligations under the Convention on the Rights of the Child and contradicts recommendations related to the standard of living, including recommendation to simplify the administrative procedures and provisions of support for cash benefits to facilitate access by families living in the most vulnerable situations.

### **Submitting organization urges the Committee to recommend the State:**

- **To abandon automation in the social protection system;**

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19 European Committee of Social Rights, Conclusions 2017 – Serbia – Article 13 Paragraph 1 – Adequate

assistance for every person in need, available at:

<http://hudoc.esc.coe.int/eng?i=2017/def/SRB/13/1/EN>. In the moment of adoption of the Conclusions, in 2017, the individual financial social assistance amounted to 8.201 dinars (approximately 70 EUR) and it did not change significantly, and in January 2024 amounts 11.445 (approximately 97 EUR).

20 See also Human Rights Watch, Submission to the Office of the United Nations High Commissioner for Human Rights on good practices and challenges to strengthen the fulfilment of the right to social security, available at: <https://www.hrw.org/news/2024/01/16/submission-office-united-nations-high-commissioner-human-rights-good-practices-and>, January 16, 2024

21 A 11 Initiative casework. See also: Human Rights Watch, op. cit.

- To ensure beneficiaries of social assistance are provided with the right to be heard and an effective opportunity to present their own arguments and evidence before the termination of social benefits.
- To ensure that efforts to ensure efficiency in the social protection system do not undermine the right of beneficiaries to privacy, human dignity, non-discrimination, and due process of law.
- To carry out necessary measures to provide the public with transparency about the algorithm and the source code of the Social Cards system, to provide the opportunity for undertaking of the human rights and algorithm impact assessment.

The majority of persons who sought assistance from the A 11 Initiative due to the loss or reduction of social benefits resulting from implementation of the Law on Social Card, belonged to the Roma ethnic minority. Discrepancies and flaws in the social card system have a profound negative impact on the lives of citizens who are already in a vulnerable position. Considering the impact of loss of benefits for persons without any other income, and its consequences on human dignity and ability to meet existential needs, systemically addressing these issues must be a prerequisite for further implementation of the Social Card system. Given the frequency of errors and their impact on the most vulnerable citizens, it is unacceptable to rely solely on correcting the described widespread omissions through appellate procedures.

### **Access to health care**

Undocumented Roma have no access to health insurance. The lack of access to health insurance has a particularly serious impact on Roma women and their access to adequate prenatal and maternal health care. **Roma women giving birth without health insurance receive high bills** and are exposed to threats in order to pay for medical treatment, i.e. for giving birth in a hospital without health insurance. The Law on the Realization of Health Care for Children, Pregnant Women and New Mothers,<sup>22</sup> adopted back in 2013, regulates the manner of exercising the right to health care for children, women and new mothers whose health insurance documents (health insurance cards) are not certified. However, it ignores those women and children who are not able to obtain health insurance cards at all, such as undocumented Roma.

In Concluding observations on Serbia in 2017, 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 (...)”<sup>23</sup> The 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

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

23 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).

most vulnerable situations, particularly those living in marginalized and remote areas". No steps were taken to fulfil this recommendation.

**The submitting organization recommends the Committee to once again call upon the Serbian Government to:**

- **Ensure access to adequate healthcare, including prenatal healthcare, for uninsured pregnant women and new mothers, particularly undocumented Roma**
- **Extend coverage by obligatory health insurance in order to include vulnerable undocumented children and pregnant women.**

### **Risk of separation of family members in cases of forced evictions**

In its last Concluding observations for Serbia, the Committee expressed concern about the persistent discrimination against Roma children in all areas of life. The concern was also raised because Roma children, among others, continue to face discrimination with regard to access to education, health care, and adequate housing.<sup>24</sup> Committee also recommended Serbia to strengthen the support provided to children living below the poverty line [...] and ensure that social protection measures cover the real costs of decent living for the children, including expenses relevant to their rights to health, a nutritious diet, education, adequate housing and water and sanitation, and also to review its legislation, policies and programmes on housing in order to prevent and eliminate homelessness.

Despite the fact that Serbia improved its legislation by adopting the Law on Housing and Building Maintenance<sup>25</sup>, which regulates the resettlement procedure<sup>26</sup>, the implementation of this procedure is not consistent.<sup>27</sup> In cases of forced evictions, **children are additionally marginalised due to the fact that their families are not provided with alternative accommodation**, contrary to the provisions of the Convention on the Rights of Child and the Art. 11 of the International Covenant on Economic, Social and Cultural Rights. This happens not only in cases of forced evictions, but also in situations when Roma families lose their homes in a fire or other types of accidents and need assistance for securing alternative accommodation. The A 11 Initiative observed a number of cases when the only alternative offered by Centres

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24 Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Serbia, CRC/C/SRB/CO/2-3, 7 March 2017, paras. 22 (a) and (b).

25 Official Gazette of RS, no. 104/2016 and 9/2020.

26 Art. 78-87 of the Law.

27 For more information about the implementation of the right to adequate housing in Serbia, please see: A 11 Initiative, Everyday Injustice - Realization of Economic and Social Rights in Serbia,, available at: <https://www.a11initiative.org/wp-content/uploads/2024/10/Godisnji-izvestaj-EN.pdf>

for Social Work (local social protection authorities with a number of social, family, child protection and other competences) to Roma families was **separation of family members**.

For example, forced eviction of the Š family was scheduled for July 5, 2022, at the territory of the city municipality of Čukarica in Belgrade. This family has been living in their home without electricity and water for years, with registered residence at the address of the Centre for Social Work. This family of four members, one of whom was a minor child, depended on financial social assistance. In the procedure of the eviction, competent city and municipal authorities treated their home as illegally built structure on public land.

The Š family was never offered any alternative accommodation. The only solution proposed by social protection institutions was the separation of the family, i.e. the placement of the minor child in the Shelter for Children, and the adult family members in the Shelter for Adults and the Elderly.<sup>28</sup> This means that at one point the Š family could only “choose” between a situation of losing their home and the family separation, which is perceived as contrary to Art. 8 of the Convention which guarantees respect of the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.<sup>29</sup>

Another similar case happened in August 2024 to Roma community in Belgrade, where a fire destroyed homes of seven families living in informal settlement Antena, affecting 40 individuals, including 23 children.<sup>30</sup> In this case, Roma families were denied access to alternative accommodation and were offered only with the opportunity for families with children up to two years old to be accommodated in the Shelter for Children. This type of a “measure” harms children’s relations with the rest of the family members and put **additional burden on mothers** to be separated from their children older than two years.

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<sup>28</sup> Social Welfare Centre Belgrade, Čukarica, Letter no. 56199-5960/22, 5 July 2022.

<sup>29</sup> Bearing in mind that the implementation of forced eviction and separation of the family would cause irreparable damage to the Š family, especially with regard to the violation of Art. 3 of the European Convention on Human Rights, which guarantees protection against inhuman and degrading treatment, the European Court of Human Rights imposed an interim measure on the Republic of Serbia, which was in force until July 15, 2022. After Initiative A 11 and the Republic of Serbia submitted additional answers, the measure was lifted, because the state explained that the eviction was abandoned due to the fact that the building was not empty.

<sup>30</sup> A 11 Initiative, Appeal from Initiative A 11 to the Relevant Authorities: Urgently Provide Housing for Families Left on the Street After the Fire in the Informal Roma Settlement Antena, available at: <https://www.a11initiative.org/apel-inicijative-a-11-nadleznim-organima-hitno-zbrinuti-porodice-koje-su-na-ulici-nakon-pozara-u-neformalnom-romskom-naselju-antena/>

Finally, it should be noted that despite the fact that Art. 103 of the Law on Housing and Building Maintenance regulates the procedure of the provision of housing assistance as a form of housing support, especially in cases when such assistance is needed for persons who are homeless, there is no persistence in the provision of such provision which provides the space for arbitrary provision of housing support and in most cases leaves Roma families without alternative accommodation in cases of forced evictions.

**The submitting organization recommends the Committee to once again call upon the Serbian Government to:**

- **Ensure protection of the child's right to preservation of family relations in cases of involuntary resettlements affecting most vulnerable population, particularly Roma communities;**
- **Ensure effective implementation of housing assistance as a form of housing support, especially for Roma and other vulnerable communities.**