A System Adverse to the Poor

Report on Economic and Social Rights in Serbia in 2024

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A System Adverse to the Poor: Social Rights Trapped Amid Obsolete Regulations, Algorithmic Decision-Making, and Disregard for International Obligations

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INTRODUCTION

The Report on Economic and Social Rights in Serbia in 2024 examines the main obstacles that hinder citizens' access to social rights and their ability to lead a life of dignity.

In numerous areas, violations of social rights and unjust outcomes stem from a failure to align with international standards, as well as from disregard for explicit recommendations issued by international bodies monitoring the implementation of human rights treaties. This occurs despite the fact that the Constitution of Serbia stipulates that provisions on human rights shall be interpreted in accordance with applicable international standards on human and minority rights, as well as the practices of international institutions overseeing their implementation.

One of the ways to prevent violations of the social rights of the most vulnerable citizens more effectively and to avert the adoption of regulations and policies that contravene international human rights standards is the proper implementation of impact assessments of legislation and policies on socioeconomically disadvantaged individuals and groups. However, this obligation, introduced into Serbia's anti-discrimination legislation in 2021, is still not being adequately implemented. As a result, opportunities are being missed to reduce existing socioeconomic inequalities and to lay the groundwork for a more just society through careful consideration of the socioeconomic implications of adopted policies and regulations. These shortcomings are particularly evident in the area of financial support for families with children, where discriminatory measures directly contribute to the most vulnerable children being forced to grow up on the margins of society.

The report shows that significant resources have been invested in projects and systems that deepen poverty and inequality, rather than alleviating them. For example, over 656 million dinars were invested between 2022 and August 2024 in the Social Card system, which accelerated the termination and restriction of social benefits for tens of thousands of citizens. Additionally, 800 million dinars were invested in the SOZIS information system, which, according to some social workers, has made their already complex work even more difficult. Similarly, the controversial Zdravitas system cost taxpayers 43 million dinars. Meanwhile, the nominal amount of financial social assistance was increased by only four euros compared to October 2023. These symbolic increases in social benefits, which fall far short of keeping pace with the rising cost of living, clearly illustrate the profound disparity between the support socially vulnerable individuals can expect and the resources they actually need to meet their basic needs. At the same time, workers in some centers for social work face shortages of basic supplies—such as paper for printing and printer cartridges—which further hinders access to quality social protection services and illustrates the long-standing neglect in this area.

The decision to allocate public resources in this manner—at the expense of those who are already the most vulnerable—demonstrates that economic challenges are not the primary reason many citizens are unable to secure a minimum standard of subsistence. Substantial investments in systems that deepen existing inequalities, generate new risks, and have detrimental consequences for a wide range of human rights indicate a lack of political will to address the root causes of problems in the area of social rights.

Of particular concern is the fact that projects such as Zdravitas or the Social Card system are often used to "experiment" on vulnerable groups or to introduce algorithmic systems, digitalization, and invasive technologies without clear mechanisms for the protection of data, privacy, and user rights, and without robust safeguards capable of preventing potential bias and discrimination. These examples highlight the urgent need for every technological project and the

introduction of algorithmic systems to be assessed from the perspective of respecting citizens' rights—not solely through the lens of administrative convenience, cost savings, or so-called efficiency. Social benefits are legal entitlements, not mere privileges. The examples of social rights violations presented in this report—brought about, *inter alia*, by the implementation of the Social Card system—serve as a reminder that the state's interest in increasing efficiency or reducing costs must not take precedence over citizens' rights to enjoy procedural safeguards inherent in the right to a fair process, nor should it result in widespread violations of the rights to privacy, social security, equality, and effective legal remedy.

While, on the one hand, algorithmic systems and digitalization in the field of social and healthcare protection are being introduced more rapidly than it is possible to assess their consequences for vulnerable groups and establish safeguards, on the other hand, outdated legal solutions continue to hinder the exercise of rights—such as the right to strike. This became particularly evident over the past year, especially through the examples of strikes in the education sector. The Law on Strikes, adopted nearly three decades ago, is yet another example where rights—in this case, labor rights—are violated due to longstanding misalignment with international law and standards. Under the existing (anti-worker) Law on Strikes of 1996, many forms of strike action have been deliberately rendered ineffective, while others have been completely prohibited. For example, it is currently impossible for education workers to conduct a genuine strike without violating this anti-worker Law on Strikes.[1] Moreover, workers in non-standard forms of employment are entirely deprived of the right to engage in collective bargaining to improve their working conditions, which makes them even more vulnerable to exploitation and abuse.[2] Over the final months of 2024, and particularly in relation to the ongoing strikes in the education sector, it has become evident that there is an urgent need to revise and modernize the legal

1 See also Aleksej Kišjuhas, *General Strike?* footnotes, Danas Newspaper, 26 January 2025.
2 Martina Semino, Yunah Kang et. al., *The Rights of Seasonal and Informally Engaged Workers in Serbia: Exploitation, Insecure Conditions, and Legal Uncertainty*, A 11 – Initiative for Economic, Social and Cultural Rights, forthcoming, p. 26.

framework governing the right to strike in line with contemporary labor rights standards. At the same time, the position of precarious workers highlights the need to extend the right to collective bargaining and trade union organizing to informal workers, as well as to strengthen labor inspections and promote social dialogue.[3] A legal framework that protects both informal and seasonal workers from exploitation, while enabling their integration into the formal labor market, is essential for the advancement of labor rights and the promotion of fair working standards more broadly.[4]

In addition to all the above, housing inequality in Serbia has further deepened in the recent period, with data showing that resolving housing issues in large urban centers is becoming increasingly difficult. While public and affordable housing is virtually nonexistent (except for certain categories of citizens, such as members of the military and police forces[5]), the most vulnerable once again remain on the margins, with no access whatsoever to adequate and dignified housing. Much like in the case of the Social Card system, the resources allocated to the housing sector are not directed toward addressing the mounting housing problems faced by the most vulnerable and those unable to resolve their housing needs through the market. As a result, housing inequalities are growing, and expectations that the situation will improve are becoming increasingly divorced from reality.

By presenting the most frequent shortcomings and rights violations in the areas of social and healthcare protection, labor rights, and the right to adequate housing, this report also seeks to highlight how these deficiencies could be addressed and how alignment with international human rights standards could move us closer to a society in which citizens who are repeatedly marginalized, discriminated against, and excluded would finally have equal access to social rights.

3 Martina Semino, Yunah Kang et. al., *The Rights of Seasonal and Informally Engaged Workers in Serbia: Exploitation, Insecure Conditions, and Legal Uncertainty*, op. cit., p. 43.
4 *Ibid.*, p. 17.
5 In accordance with the Law on Special Conditions for the Implementation of the Housing Construction Project for Members of the Security Forces.

THE RIGHT TO WORK

In the area of labor rights, no significant legislative changes occurred in Serbia during 2024. However, through trade union initiatives, international pressure, and public campaigns, foundations were laid for future reforms. The issue of decent work and fair wages remains central to discussions on labor legislation, while mechanisms such as due diligence regulations and strikes have demonstrated their relevance. In 2025, a more vigorous effort is expected to improve the legislative framework and strengthen institutional protection for workers.

Normative Activities

With regard to legislation in this field, no legislative activity took place in 2024. Despite the conclusions of numerous stakeholders that the laws governing labor are inadequate and that workers are the group most adversely affected by the current state of affairs, the situation remains unchanged, and deadlines for forming working groups continue to be postponed. Nonetheless, some social actors, such as trade union organizations—particularly the UGS "Nezavisnost"—have submitted their proposals for a new Labor Law. The proposed key amendments include extending fixed-term employment contracts from the current 24 months to up to 36 months, which would allow for clearer regulation of employment relationships; improving workers' rights - redefining the term "employee"; strengthening the role of union representatives; enhancing protection for women in the workplace; clarifying criteria for collective bargaining; and harmonizing the law with EU standards.[6]

The amendment to the Law on the Employment of Foreign Nationals[7], which entered into force on 1 February 2024, introduced a number of changes. From the perspective of decent work, the adopted amendments include some positive solutions, such as the possibility of permanent employment, better protection of rights, and increased penalties for violations. As for the amendment that attracted the most attention from the expert community—simplified procedures for obtaining work permits—its practical implications remain to be seen. On the one hand, easier access to work permits could facilitate the integration of migrant workers and simultaneously reduce undeclared work and coercion by employers (which will no longer occur, since a work permit is no longer lost upon termination of employment with the employer through whom it was originally obtained). The extension of residence and work permits—now possible for up to three

6 United Branch Trade Union "Nezavisnost," *Nezavisnost Marks Its 33rd Anniversary at Work: For a New Labor Law and Specialized Labor Courts*, 21 November 2024, available at: https://nezavisnost.org/nezavisnost-radno-obelezila-33-rodjendan-za-novi-zakon-o-radu-i-posebne-sudove-rada/.

7 "Official Gazette of the RS", no. 128/14, 113/17, 50/18, 31/19 and 62/23.

years—may lead to longer stays for foreign workers. Additionally, foreigners who already have approved residence in Serbia (such as refugees and asylum seekers) are no longer required to obtain a work permit in order to work. Nevertheless, with the simplified procedure and the labor market's strong demand for low-skilled and lower-paid labor—workers who are often forced to accept extremely poor working and living conditions—concerns have emerged that an increase in this category of workers may undermine the level of labor rights achieved thus far.

In June 2024, the Constitutional Court of the Republic of Serbia initiated proceedings to assess the constitutionality of the Law on Gender Equality. At its 8th session, held on 27 June 2024, the Court also decided to suspend the application of the entire law pending the conclusion of the proceedings.[8] The constitutional review was initiated based on eight motions submitted by natural and legal persons, including the Protector of Citizens.[9] The Law on Gender Equality provides a legal framework for combating gender-based discrimination and violence, as well as for promoting the equal participation of women and men in all spheres of society. It is a key instrument for achieving genuine gender equality in Serbia. The alleged unconstitutionality was challenged on various grounds, but two aspects of the law were particularly targeted, primarily by representatives of the Serbian Orthodox Church and conservative segments of society. These were, above all, the introduction of gender-sensitive language and the initiation of provisions requiring its use—specifically Articles 37 and 44, which mandate educational institutions, public authorities, and news agencies to apply gender-sensitive language in their work. In addition, the petitioners objected to the use of the term "gender" instead of "sex," insisting that the latter term be used. These motions for constitutional review are the product of a growing anti-gender

8 Press Release from the 8th Session of the Constitutional Court, 27 June 2024, available at: https://ustavni.sud.rs/sednice-suda/saopstenja-sa-sednice-suda/saopstenje-sa-8-sednice-ustavnog-suda-odrzane.

9 The motion, that is, the proposal for a review of the constitutionality of the Law on Gender Equality was submitted by the Law Office of Milenko Radić, the Serbian Radical Party, and the Protector of Citizens. The Serbian Movement Dveri submitted a similar proposal to the National Assembly.

movement and right-wing political agendas. Although such reactions were expected from traditionalist and right-leaning political actors, the participation of the national human rights institution—the Protector of Citizens—in these activities constitutes a global precedent. It may be concluded that the temporary suspension of the entire law, rather than only the contested provisions, is a highly unusual practice. To date, the Constitutional Court has issued only two rulings suspending an entire law,[10] making this decision particularly rare and unorthodox. In its reasoning, the Court stated that implementation of the Law on Gender Equality could lead to irreparable harmful consequences. It further specified that "the submitted initiatives raise constitutional and legal questions that go beyond the specific issues raised by the petitioners. Therefore, at this stage of the constitutional review, the Constitutional Court has decided to initiate proceedings to assess the constitutionality of the Law on Gender Equality in its entirety." This decision has numerous consequences for the area of gender equality across all sectors, including labor and employment. The most immediately visible consequence relates to the requirement under the Law for employers to report on the state of gender equality in the workplace. These annual reports were submitted to the Ministry for Human and Minority Rights and Social Dialogue, which compiled comprehensive annual reviews on gender equality. These reports identified shortcomings and instances of inequality, serving as a basis for advocating targeted measures (as was the case in 2022, when a set of support measures for women entrepreneurs was adopted following data that revealed significantly lower female participation in entrepreneurship). The monitoring of gender equality has now been suspended, disrupting the continuity of reporting. Employers who had only recently begun complying with this obligation are no longer required to submit reports, which further undermines the impact of the law and places it at a disadvantage, regardless of the final outcome of the proceedings. The constitutional review of the Law on Gender Equality represents yet another attempt to under-

10 Prior to this case, such a decision was made in connection with the Law on Public Assembly which had been adopted and amended during the validity of the 1990 Constitution, and the Law on the Reduction of Net Income of Public Sector Employees, https://pescanik.net/otvoreno-pismo-strucne-javnosti-ustavnom-sudu/.

mine mechanisms for the protection of women and other vulnerable groups in Serbia—mechanisms that are already insufficiently implemented. Although the law is far from perfect, it nevertheless contained provisions that could have improved women's position in the labor market, enabled more effective sanctioning of discrimination, and encouraged a more equitable distribution of unpaid domestic labor. The central concern in this process is not merely the legal outcome—whatever it may be—but also the broader societal signal it sends: that women's rights in Serbia remain subject to political bargaining and ideological confrontation. Even if the Constitutional Court does not declare the law unconstitutional, the very fact that proceedings have been initiated may produce negative consequences, discouraging institutions from enforcing the law and further delegitimizing the struggle for gender equality. This entire situation once again confirms the fragility of institutional mechanisms and the difficulty of achieving progress in societies willing to sacrifice women's rights in favor of political compromise and appeasement of conservative forces. It is therefore essential to persist with activism, institutional pressure, and public advocacy to ensure that laws protecting women's rights are not only enacted but also consistently and effectively enforced.

Although no progress has been made in improving the domestic legal framework for the protection of rights, developments in other legal systems have contributed to enhancing protections in Serbia. The German Supply Chain Due Diligence Law (Lieferkettensorgfaltspflichtengesetz, LkSG) has now begun to be applied.[11] This law imposes an obligation on companies to ensure the respect of human rights and environmental standards throughout their entire supply chain, including working conditions. Its implementation is particularly important for workers in Serbia, as it creates additional pressure on employers to comply with international labor standards. The Law applies to companies based in Germany with at least 1,000 employees, and they are required to ensure the protection of human rights and environmental standards throughout their supply chains—from raw ma-

11 More information is available in the presentation of the Federal Ministry of Labor and Social Affairs of Germany, available at: https://www.csr-in-deutschland.de/EN/Business-Human-Rights/Supply-Chain-Act/supply-chain-act.html.

terial suppliers to end producers. In addition to preventive measures that companies must take, it is important to highlight the protection mechanism that enables workers in countries that are part of the supply chain to file complaints with companies or address German institutions, including the courts. These obligations have put pressure on employers in Serbia who operate with German companies, as part of the global supply chain, to meet the requirements of German companies, which include improving working conditions. This entails stricter internal controls and alignment with international labor standards. Of course, this mechanism has its shortcomings and is not intended to replace domestic institutions that are not functioning. The main deficiencies lie in the fact that it does not prescribe automatic sanctions for German companies if violations are detected; rather, they are given the opportunity to resolve the problem through corrective measures. Additionally, it does not cover small and medium-sized enterprises, meaning that many workers remain unprotected.[12] The German Supply Chain Due Diligence Law sets standards that may contribute to improving working conditions in Serbia and other countries within supply chains, but its enforcement depends on the pressure exerted by German institutions, the activities of trade unions and civil society organizations, and the willingness of employers to adapt to the new requirements. In the context of Serbia, this additional form of protection is of particular significance. In terms of its potential, it cannot match the scope or strength of a judicial proceeding or a labor inspection order, but in a context where judicial protection is slow and costly, and labor inspection oversight is difficult to achieve in practice, this mechanism represents an important remedy for workers in Serbia.

Given the need for such mechanisms beyond Germany, this concept has also gained significance at the European Union level, culminating

12 Many sources criticize the law for its limited scope and numerous implementation challenges. For more information on this topic, see: International Federation for Human Rights, *„Germany: Call for an improvement of the Supply Chain Due Diligence Law"*, 15 November 2021, available at: https://www.fidh.org/en/issues/business-human-rights-environment/germany-call-for-an-improvement-of-the-supply-chain-due-diligence-act, and Africa Policy Research Institute, *„Will the New German Supply Chain Due Diligence Law Really Contribute to Human Rights and Environmental Protection?"*, 1 February 2023, available at: https://afripoli.org/will-the-new-german-supply-chain-due-diligence-act-really-contribute-to-human-rights-and-environmental-protection.

in the adoption of a directive. This process carries a number of specificities and formalities, and therefore, the same scope and form of protection as under the German law could not reasonably be expected—especially considering the legal nature of the directive. However, it is clear that the German law laid the groundwork for further development of the principles of due diligence and corporate accountability. In 2022, the European Commission proposed the Corporate Sustainability Due Diligence Directive (CSDDD)[13], with the aim of harmonizing and extending due diligence obligations across all EU Member States. The Directive applies to large companies with more than 500 employees and an annual turnover of at least €150 million, as well as to medium-sized companies with more than 250 employees and an annual turnover of at least €40 million, provided that at least 50% of their revenue is generated from certain high-risk sectors. The Directive imposes an obligation on companies to identify, prevent, and mitigate adverse impacts on human rights and the environment in their business operations and supply chains. Individuals whose rights have been violated are entitled to seek legal protection, including the possibility of authorizing trade unions or civil society organizations to represent them in civil proceedings. The Directive was adopted on 13 June 2024, and EU Member States are required to transpose it into their national legal frameworks by 2026.

The opening of Cluster 3 in negotiations with the EU[14], although announced and anticipated, did not take place, as the ambassadors of the Member States failed to reach an agreement. An analysis of the European Commission's annual report on Serbia—for 2024 as well as previous years—shows that this outcome is not surprising, given the absence of praise or acknowledgments of progress. Moreover, the scope of recommended actions continues to expand, indicating that further steps are needed in order for the chapter to be opened.

13 Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 (Text with EEA relevance), https://eur-lex.europa.eu/eli/dir/2024/1760/oj.
14 Cluster 3 includes eight chapters, among which the chapter on Social Policy and Employment (Chapter 19) is still awaiting opening.

Minimum Wage

The position of workers and the extent to which their rights are realized are also reflected in the level of wages. For a large number of employers, particularly in the industrial and retail sectors, the minimum wage represents the standard salary received by the majority of workers in lower and mid-level positions.

For the first time in several years, the dialogue within the Socio-Economic Council concluded with an agreement on the minimum wage amount for 2025.[15] In previous years, no such dialogue took place within the Council, resulting in the Prime Minister formally determining the minimum wage. This shift is indeed a positive development. However, there has been no change in the method of wage calculation, which continues to produce a distorted picture of actual living costs from the outset. Specifically, this arises from the use of a completely inadequate calculation method, whereby the minimum wage is tied to the value of the minimum consumer basket. An additional issue lies in the fact that the amount of the minimum consumer basket used in the negotiations reflects its value at the time of the negotiations. This has resulted in a situation where the minimum wage has been determined based on the value of the minimum consumer basket for May 2024, while the wage amount will be applied starting from January 2025. In the context of an unregulated food market and rising prices of basic living expenses, such a calculation method completely loses its purpose. According to data from July 2024, there were 114,000 employees in Serbia receiving the minimum net wage, which represents approximately 5% of the total number of employees in the country.[16] It is therefore concluded that the number of people earning the minimum wage is decreasing, although this statistic does not include all cases in which workers return a portion of their wages

15 Decision on the amount of the minimum wage for 2025, "Official Gazette of the Republic of Serbia", no. 74/2024. The minimum wage in 2025 will amount to 53,529 dinars, or 308 dinars per working hour, representing an increase of 13.7 percent compared to the previous minimum wage.
16 Data presented on the website of the Ministry of Finance: https://www.mfin.gov.rs/sr/aktivnosti-1/mali-minimalna-zarada-od-1-januara-od-53592-dinara-postignut-dogovor-sa-socijalnim-partnerima-1?utm_source=chatgpt.com.

to the employer in cash, nor does it account for individuals engaged in informal employment.

In September 2024, the "Living Wage Day"[17], was established and marked globally. The A 11 Initiative, together with its partners, participated in street actions aimed at explaining and promoting this concept to the public. Furthermore, the end of the year—specifically October and November—was marked by mass strikes of education workers, which are likely to extend into the following year. These strikes once again demonstrated the inadequacy of the current legal framework, which is highly restrictive, fails to reflect the actual state of the labor market, and is not aligned with international conventions. There is, more than ever, a pressing need to adopt a new Law on Strikes or to regulate this matter differently within the overarching Labor Law. The existing Law on Strikes was adopted 29 years ago under significantly different social circumstances, and the rules it prescribes today completely undermine the purpose and essence of the right to strike. The social developments at the end of 2024, along with numerous work stoppages in the education sector and attempts to organize a general strike, confirm this view. Specifically, the statutory provisions significantly limit the exercise of the right to strike, to the extent that holding a legally compliant strike proves to be an extremely difficult challenge in practice.[18] The greatest obstacles to conducting a strike in full are the provisions that require a "reasonable" strike notice period—ranging from 5 to 10 days prior to the commencement of the strike—and the institution of minimum work process, which is defined in an excessively broad and disproportionate manner. Additionally, the absence of so-called "solidarity strikes" represents another major issue.[19] As a result, under the current legal

17 The Living Wage concept advocates for worker pay that is significantly higher than the current level and aligned with the realization of the principle of dignity at work. This type of wage is calculated based on the actual cost of living and covers the basic needs of workers and their families: food, clothing, housing, public transportation, utility and telecommunications expenses, education, healthcare, leisure and culture, among others. For more information, see: https://platazazivot.rs/.

18 *"The Law on Strikes, So What",* Mašina portal, 22 January 2025, available at: https://www.masina.rs/zakon-o-strajku-pa-sta/.

19 Articles 2, 5, and 10 of the Law on Strikes ("Official Gazette of the Federal Republic of Yugoslavia", No. 29/96 and "Official Gazette of the Republic of Serbia", Nos. 101/2005 – other law, and 103/2012 – decision of the Constitutional Court).

provisions, workers in Serbia do not have an effective mechanism for exercising their right to strike and to organize collectively.

At the Jura factory in Leskovac,[20] workers organized a strike in response to the introduction of a "perfect attendance" bonus. This bonus was awarded to employees who did not miss work during the month, increasing work pressure and stress among staff and effectively preventing them from taking leave, even when ill. The workers argued that such a practice was inconsistent with legislation and constituted an unfair obligation. The strike concluded with an agreement between the union and the employer. Although not all of the workers' demands were fully met, a compromise was reached that enabled the continuation of production and led to improved working conditions. It is important to emphasize that this case sparked a broader public discussion on labor rights and the legality of attendance-based bonuses.

Throughout 2024, the A11 Initiative received inquiries from citizens primarily seeking advice on labor-related rights—such as annual leave entitlements, workplace conditions and safety—and assistance with registration at the National Employment Service. We also continued to draw public and institutional attention to the position of seasonal workers in agriculture and construction. The A11 Initiative did so by highlighting working conditions related to transport to work sites, occupational safety during outdoor work in high temperatures, the inability to take leave due to illness or pregnancy, and the consequences of systemic discrimination. Seasonal workers often work under insecure conditions, with vague contracts and limited access to social protection, making them particularly vulnerable in the workplace.

Precarious Work

The defining characteristic of precarity—and what distinguishes this category—is the **absence of job security** and, consequently, the loss

20 For further information, see: https://strajkujuri.rs/.

of an identity rooted in stable employment. This category includes individuals whose work arrangements do not guarantee regularity in employment and/or income: workers engaged in temporary or occasional assignments, fixed-term contracts, contracts for specific tasks or projects, platform workers, seasonal workers in agriculture, retail, services, and construction, as well as those active in the informal economy. Although this group may not always earn low wages, what unites them is the lack of security and the inability to plan for the future—uncertainty about the duration of employment, the need to seek new work, and the denial of the full spectrum of rights associated with decent work. According to the most recent Labor Force Survey for 2024[21], of the total 2,227,600 employed individuals, 426,400 were employed on fixed-term, seasonal, or occasional contracts. In other words, the official share of precarious workers in Serbia's working population aged 15 to 64 is approximately 20%. It is important to note that these statistics do not include numerous unaccounted categories, such as pensioners working due to insufficient pensions, young people volunteering while actively job-seeking, or individuals working in the informal economy ("grey economy"). Including these categories would significantly increase the actual number of precarious workers in Serbia. The existing trend of labor legislation fragmentation, exemplified by the adoption of the Law on Seasonal Workers and the Law on Agency Employment, has effectively removed these categories of workers from the scope of the Labor Law, thereby rendering their labor rights even more vulnerable. As a result, a significant number of workers under these regimes are denied access to some of the most fundamental labor rights, such as the right to a minimum wage, limits on working hours, and entitlements to rest and leave. By recognizing and protecting exclusively the rights of employees—that is, natural persons formally employed by an employer,[22]—the Labor Law provides detailed safeguards only for those who have entered into an employment contract. Work performed outside of an employ-

21 Labor Force Survey in the Republic of Serbia, 2024, Statistical Office of the Republic of Serbia, available at: https://publikacije.stat.gov.rs/G2025/Pdf/G20255720.pdf, p. 53.
22 Article 5, paragraph 1 of the Labor Law ("Official Gazette of the RS", Nos. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 – Constitutional Court Decision, 113/2017 and 95/2018 – Authentic Interpretation).

ment relationship (precarious work) is only superficially regulated, and its legal framework is left to other regulations and to prevailing practice, which in most cases undermines key labor rights. One such right, inaccessible to a vast number of workers who are not employed under the Labor Law, is the right to unionize. There can be no meaningful improvement in working conditions for the precarious labor force as long as these workers are legally excluded from the possibility of organizing themselves collectively, either as workers or through trade unions. The Labor Law and the Law on Strikes[23] both recognize trade union membership only in relation to "employees," once again excluding all other persons engaged in work. As a result, this right remains unavailable to a large portion of the workforce. Such legislative practices appear to be highly questionable under both constitutional and international legal standards particularly when considering the Constitution of the Republic of Serbia—which guarantees, among other rights, freedom of trade union association without prior approval, subject only to registration requirements[24] —and the International Labor Organization (ILO) Convention No. 87 on Freedom of Association, which in Article 2 stipulates that "workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization". According to official data[25], as many as 65.5% of precariously employed workers cite the inability to secure open-ended employment as the main reason for working under such arrangements. This suggests that the majority of these workers have not chosen their employment status voluntarily; rather, it is a result of economic necessity, rooted in their material circumstances, which in turn makes them more vulnerable to various forms of labor exploitation. Workers engaged under such conditions are unable to negotiate the terms of their work or demand higher wages, as they cannot afford to be without employment even for a single day. Employers, on the other hand, are presented with an effectively

23 Article 6 of the Labor Law and Article 1 of the Law on Strikes.
24 Article 55 of the Constitution of the Republic of Serbia ("Official Gazette of the RS", Nos. 98/2006 and 115/2021).
25 Labor Force Survey, 2024, Statistical Office of the Republic of Serbia, p. 54, available at: https://publikacije.stat.gov.rs/G2025/Pdf/G20255720.pdf.

unlimited pool of low-cost labor due to high levels of unemployment and widespread social vulnerability. Even if this neoliberal paradigm[26] were to change, precarious workers would still lack the legal basis to articulate their demands, as neither the Labor Law nor the Law on Strikes grants them the right to unionize.

Protection of Labor Rights

The effectiveness of labor rights protection in practice is of critical importance for improving labor rights and the overall position of workers. The **Labor Inspectorate** continues to be a major obstacle in providing protection to workers. Formally, this mechanism has a broad mandate and oversees the enforcement of a wide range of laws that are crucial for labor rights. However, in practice, this protection is far from functional. According to the latest available data, there are 207 labor inspectors employed across the territory of Serbia (out of a total of 282 authorized positions), and the data on their number and regional distribution clearly demonstrate that it is effectively impossible to respond adequately to all reported violations.[27] Workers in insecure forms of employment, seasonal workers, and those working in the informal economy are practically left to fend for themselves, as inspections are rarely conducted proactively. In addition, other key issues affecting the implementation of this protection mechanism include lenient sanctions and the absence of serious consequences for employers. Even when irregularities are identified by the inspection, penalties are often symbolic and fail to deter employers from repeat-

26 In peripheral or semi-peripheral capitalist countries, the economy operates on the basis of cheap and sufficiently abundant unemployed labor. Due to intense competition in the labor market, acquired and hard-won labor rights are gradually eroded, as employees are increasingly willing to accept lower wages and deteriorating working conditions out of fear of being replaced—while employer profits continue to grow. For more information on this topic, see: V. Bogoeski and F. Costamagna, "Law and the Production of Precarious Work in Europe: an Introduction", European Law Open , Volume 1 , Issue 3 , September 2022 , pp. 660 - 668

27 This risk is also identified in the publication addressing the effectiveness of grievance mechanisms, *Risk Analysis for Serbia*, S. Damnjanović, C. von Mitzlaff, M. Trost, GIZ, 2024, available at: https://responsiblebusinesshub.pks.rs/wp-content/uploads/2024/08/Country-Risk-Analysis-Serbia-SRB.pdf.

ed violations.[28] In many cases, employers continue the same practices without fear of consequences. Moreover, the inspection procedure is lengthy, often lacks transparency, and workers rarely obtain satisfaction through the oversight process.

An unresolved and ongoing case concerning accountability for the tragedy that occurred at the Soko coal mine illustrates that such incidents continue to take place and share a common characteristic: the absence of legal closure and adequate protection. In early 2024, specifically between January 17 and 19, an incident occurred at the "Magna" factory in Aleksinac, where more than 150 workers reported symptoms of poisoning, most likely caused by adhesive fumes. Measures were taken at the time, including the involvement of the police, labor inspectorate, veterinary inspection, and the department for emergency situations. Although initial steps were taken to determine the cause of the poisoning, details of the investigation and final findings were not made available through public sources. There is no information indicating whether those responsible for the incident were identified or whether sanctions were imposed on the employer, while the workers were required to return to their workplaces shortly thereafter.[29]

Employment of Hard-to-Employ Persons

Despite strategic objectives aimed at increasing the employment of persons of Roma ethnicity, Roma remain one of the most vulnerable groups, frequently without permanent employment, earning minimal income, and engaged in the most difficult and strenuous types of work. The main reasons for their disadvantaged position in the labor market are most often a lack of adequate education, coupled with persistent prejudice and stereotypes. The level of qualification

28 The 2021 annual report of the labor inspectorate shows that employers in Serbia were fined a total of 207.1 million dinars, with the average fine amounting to 50,697 dinars. These fines were mostly imposed for violations of the Labor Law and the Law on Occupational Health and Safety.
29 Južne vesti, "*Inspections Remain Silent, Workers Return to Magna – First with Masks, Then Without*", 30 January 2024, available at: https://www.juznevesti.com/drustvo/inspekcije-cute-radnici-se-vratili-u-magnu-prvo-pod-maskama-pa-bez-njih/.

of the labor force is inversely proportional to the degree of labor exploitation. Although official data on the average income of Roma do not exist, it is estimated that the share of Roma engaged in informal employment is 71%, compared to 17% among other population groups. This high percentage of work within the informal labor market mostly involves the collection of secondary raw materials, seasonal work, musical performances, and cleaning services.[30] Official data that should be provided by the National Employment Service or the Statistical Office of the Republic of Serbia on the exact or approximate number of unemployed Roma is not available. The NES does not include this data in its monthly bulletins, while the Labor Force Survey does not recognize nationality as a statistical category.[31] As a result, it is not possible to adequately monitor the impact of employment measures on the employment of Roma. In 2024, measures for employing hard-to-employ categories remained based on employer subsidies, rather than on systemic changes that would ensure the long-term and sustainable inclusion of these groups in the labor market. Although the National Employment Service (NES) implements support programs for the employment of Roma, persons with disabilities, and the long-term unemployed, the amount and availability of subsidies are insufficient to overcome the structural barriers faced by these groups—such as discrimination, poor working conditions, and a lack of support for adapting to the work environment.[32]

Furthermore, programs such as internships and professional training, while potentially useful, often result in insecure forms of employment or leave workers trapped in a cycle of temporary engagements without the guarantee of stable employment. Without substantial im-

30 Strategy for the Social Inclusion of Roma in the Republic of Serbia for the Period 2022–2030, section 4.2.2. Employment.

31 Labor Force Survey for 2023, available at: https://publikacije.stat.gov.rs/G2024/Pdf/G20245707.pdf.

32 The National Employment Service (NES) issued public calls for the allocation of subsidies to employers hiring individuals from these groups. Subsidies were awarded as a lump-sum amount, with the value depending on the level of development of the local self-government unit. More information on subsidies is available at: http://www1.nsz.gov.rs/live/nudite-posao/subvencija_za_zapo_ljavanje_nezaposlenih_lica_iz_kategorije_te_e_zapo_ljivih.cid266.
In addition, the NES issued public calls for the implementation of measures such as internships for young people with higher education, acquisition of practical skills, and professional training, with the aim of increasing the employability of youth and persons with disabilities. More information on calls for applications is available at: https://www.rra-bp.rs/konkursi/nacionalna-sluzba-za-zaposljavanje-javni-pozivi-u-2024-godini.

provements to labor legislation, strengthening of labor inspections, and effective procedures for addressing rights violations, these programs remain partial solutions that fail to address the root causes of long-term unemployment and labor insecurity in Serbia.

With regard to the "My First Salary" program, which is considered one of the largest employment initiatives and which, since its inception, has included 33,797 young people[33], it continues to be implemented in a manner that leads to precarious employment and labor exploitation. As previously noted in the reports of the A 11 Initiative[34], the design of this program does not result in actual employment, and it is particularly problematic that the state co-finances work for which the compensation falls below the legally established minimum wage.[35] It is worth recalling that this employment incentive measure was also addressed by the United Nations Committee on Economic, Social and Cultural Rights, which, in its Concluding Observations, recommended that Serbia take effective measures to protect against labor exploitation and ensure, through labor legislation, the protection of participants in the dual education system as well as young people engaged in internship programs such as the "My First Salary" program.[36]

33 Nova ekonomija, "*What Happened to the 'My First Salary' Program, Will There Be a Fifth Cycle?*", 23 October 2024, available at: https://novaekonomija.rs/vesti-iz-zemlje/gde-je-nestala-moja-prva-plata-hoce-li-biti-petog-ciklusa-ovog-programa.

34 For more information, see: Everyday Injustice, 2024, A 11 – Initiative for Economic and Social Rights, Right to Work.

35 The "My First Salary" program lasts for nine months, during which, in 2024, the National Employment Service will pay participants with completed secondary education a monthly amount of 28,000 dinars, and those with higher education 34,000 dinars. Compared to the previous year, the amount of compensation has not increased, https://www.nsz.gov.rs/sadrzaj/program-%E2%80%9Emoja-prva-plata%E2%80%9C-%E2%80%93-nezaposleni-mladi-otpoce-ce-sa-obavljanjem-prakse-kod-poslodavaca-u-januaru-2024-godine/11106.

36 UN Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Serbia, 6 April 2022, UN Doc. no. E/C.12/SRB/CO/3.

Case Study: Barriers to the Reintegration of a Former Offender

Jovica is a medical technician who was registered in the Registry of the Chamber as a nurse–technician until the Director of the Chamber of Nurses and Health Technicians of Serbia rejected his request for license renewal. In the reasoning of the decision, it was stated that the refusal to renew the license was based on the fact that Jovica had been convicted by a Serbian court and sentenced to three years and four months of imprisonment, which he had fully served.

One month before his license expired, Jovica concluded an employment contract with a hospital for the position of nurse–technician in various hospital departments, on a fixed-term basis. As performing the duties of this position requires a valid license issued by the Chamber of Nurses and Health Technicians, the director of the hospital issued a decision terminating Jovica's employment contract, citing the prohibition on performing nurse–technician duties regardless of the will of either the employee or the employer. The reasoning behind the termination decision stated that although Jovica holds a diploma from a four-year secondary medical school and therefore meets the qualifications to work in the healthcare sector, he did not meet the conditions prescribed by Article 184, paragraph 1 of the Law on Healthcare.[37] This article stipulates that a healthcare worker who does not obtain or renew a license, under the conditions set by this law and the implementing regulations, may not perform healthcare activities in a healthcare institution. It was not possible to offer Jovica an alternative position outside the healthcare sector, as his educational background does not meet the required profile, professional title, or occupation.

Jovica's situation was further complicated by the conditions prescribed in Article 2 of the Rulebook on Detailed Conditions for the Is-

37 "Official Gazette of the RS"

suance, Renewal, and Revocation of Licenses for Members of Health Worker Chambers[38]. Among the prescribed conditions for license issuance, it is stated that: "The Chamber shall issue a license to a healthcare worker who has not been convicted by a final court judgment for an intentional criminal offense to a prison sentence of one year or more, nor to a prison sentence for a criminal offense against human health." Furthermore, Article 11 of the Rulebook provides that: "In the process of license renewal, the competent chamber is obliged *ex officio* to determine whether any grounds for license revocation, as defined in Article 185 of the Law on Healthcare, have arisen," and that if such grounds are found to exist, the chamber shall not renew the healthcare worker's license.[39] On the basis of these provisions, Jovica's request for license renewal to independently perform healthcare activities in Serbia was rejected.

The refusal to renew his license not only led to the termination of Jovica's employment contract with the hospital—where he had worked following the completion of his prison sentence and where he was expected to conclude a permanent employment agreement—but also prevented him from performing the profession for which he had been trained. This restriction will remain in place until the legal consequences of the conviction cease, that is, until the statutory conditions for judicial rehabilitation are met and the conviction is removed from the criminal record[40] (which will not be possible for at least the next four years).

Jovica appealed the decision not to renew his license to the Ministry of Health, but his appeal was rejected. He did not subsequently pursue an administrative dispute.

Instead of initiating administrative proceedings, Jovica submitted a complaint to the Commissioner for the Protection of Equality, claim-

38 "Official Gazette of the RS"
39 Article 185 of the Law on Healthcare: "The Chamber shall, *ex officio*, temporarily revoke the license of a healthcare worker: (...) if the individual has been convicted by a final court decision for an intentional criminal offense and sentenced to a term of imprisonment of six months or more, or to a term of imprisonment for a criminal offense against human health."
40 Article 99, paragraph 1 of the Criminal Code.

ing that the Chamber of Nurses and Health Technicians of Serbia and the Ministry of Health had discriminated against him on the grounds that he had been sentenced to a term of imprisonment for a criminal offense that bore no connection whatsoever to the performance of healthcare activities. Following receipt of the complaint, the Commissioner informed Jovica that she found the ten-year period following the completion, remission, or statutory limitation of a sentence, required for the renewal of a nurse–technician license, to be unreasonably long and clearly disproportionate to the objective pursued by such a restriction. On this basis, the Commissioner submitted an initiative to amend Article 138 of the Law on Healthcare, which serves as the legal basis for regulating the issuance of licenses for nurses and health technicians in this manner.[41]

Following this correspondence, Jovica submitted another request for registration with the Chamber of Nurses and Health Technicians of Serbia. The request was dismissed on the grounds that a decision had already been issued on the same matter. As a result, he was again forced to appeal to the second-instance body—the Ministry of Health. The Ministry rejected his arguments regarding the necessity of renewing his license and dismissed his appeal against the decision of the Chamber of Nurses and Health Technicians of Serbia.[42] Jovica has since initiated proceedings before the Administrative Court, requesting the court to uphold his arguments supporting the claim that this case constitutes indirect discrimination, and to issue, in a full jurisdiction dispute, a ruling annulling the decisions adopted in the license renewal procedure and to renew the license previously issued to him by the Chamber of Nurses and Health Technicians of Serbia.

The proceedings are still ongoing, and Jovica's case illustrates that even seemingly straightforward solutions—such as amending a regulation with clearly discriminatory effects—are not simple to implement in practice. In the meantime, Jovica is compelled to engage in various forms of work in order to provide for himself and his family.

41 Commissioner for the Protection of Equality, letter no. 07-00-112/2024-02, dated 1 April 2024.
42 Ministry of Health, decision no. 500-01-1810/2024-02, dated 11 February 2025.

Labor Relations and the Exercise of the Right to Health

The Labor Law[43] does not recognize workers as a legal category, but only employees, defined exclusively as individuals whose employment status is regulated through an employment contract. This category does not include those engaged under service contracts, temporary and occasional jobs, professional training and development, supplementary work, or many individuals working without any formal contract. For all these categories, the Law stipulates that they "work outside of an employment relationship," and therefore are not guaranteed full access to rights afforded to employees—such as paid sick leave[44] and other in the event of illness, reduced or lost work capacity, or old age. In practice, these forms of contracts are often misused and serve as substitutes for employment contracts, enabling employers to avoid guaranteeing labor rights that derive from an employment relationship. According to the latest Labor Force Survey data published in 2024, there are 112,200 workers in Serbia without health insurance, 143,500 without the right to paid sick leave, while 17.2% of workers endanger their mental and physical health by working overtime without any financial compensation, merely to meet their basic needs.[45]

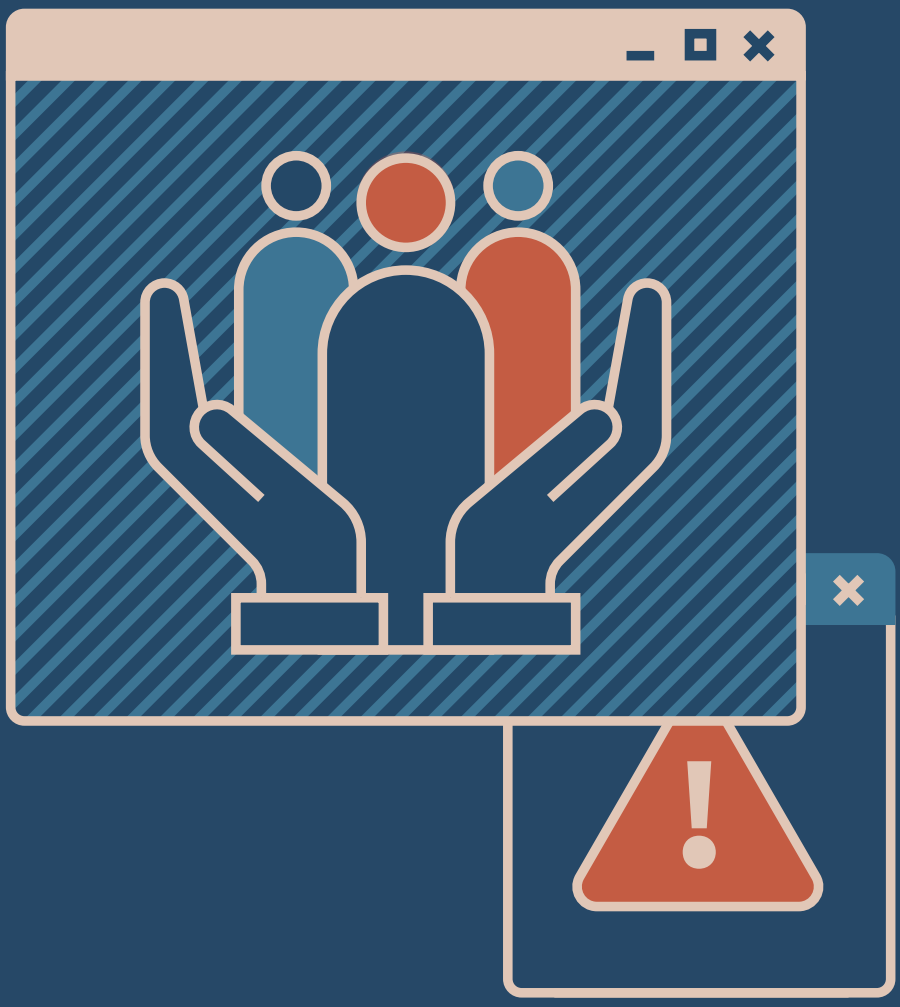
On the other hand, the Law on Simplified Employment in Seasonal Jobs in Certain Activities[46] further exacerbates the precarious status of workers. It does so primarily by allowing oral agreements, contrary to the provisions of the Labor Law, and by further undermining the rights of workers outside employment relationships in the interest of reducing labor costs. This includes, *inter alia*, the lowering of guaranteed health protection. For example, under this legal regime, workers

43 "Official Gazette of the RS", nos. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 – Constitutional Court decision, 113/2017 and 95/2018 – authentic interpretation.
44 That is, the right to wage compensation during temporary incapacity for work, as further defined in Article 73 of the Law on Health Insurance.
45 Statistical Office of the Republic of Serbia, Labor Force Survey, 2023, available at: https://publikacije.stat.gov.rs/G2024/Pdf/G20245707.pdf.
46 "Official Gazette of the RS", br. 50/2018.

are only entitled to health insurance in cases of work-related injuries or occupational diseases, excluding other health conditions.

The Law on the Prevention of Harassment at Work[47] and the Law on Occupational Health and Safety[48] both prescribe that employees have the right to refuse to work if there is an immediate danger to their life or health. However, workers exposed to such working conditions often have no alternative means of securing their basic livelihood and are compelled to accept such hazardous employment. In a context where trade union organization is weak and legal protection of labor rights through the courts is often subject to lengthy delays, workers are left with little choice but to accept work that directly endangers their health.

47 "Official Gazette of the RS", br. 36/2010.
48 "Official Gazette of the RS", br. 35/2023.



THE RIGHT TO SOCIAL PROTECTION

In 2024, the situation in the area of social protection continues to show signs of deterioration. Positive developments are slow and sporadic, while obstacles to accessing financial social assistance have become more numerous and far-reaching, affecting an increasing number of people.

One of the few advances in recent years was recorded in 2022, when the Constitutional Court declared unconstitutional a provision of the Law on Social Protection that served as the legal basis for the Government Decree on Measures for the Social Inclusion of Financial Social Assistance Beneficiaries.[49] This bylaw had introduced forced labor for recipients of financial social assistance. The Constitutional Court's decision, adopted in 2022, had been pending since 2014—almost eight years.

49 By Decision of the Constitutional Court No. IUz-332/2015, published in the Official Gazette of the RS, No. 117/2022 of 26 October 2022, paragraphs 3 and 4 of Article 80 of the Law on Social Protection (Official Gazette of the RS, No. 24/11), which served as the basis for the adoption of the Decree on Measures for the Social Inclusion of Financial Social Assistance Beneficiaries, were declared unconstitutional. For more information on the decision of the Constitutional Court, as well as concerns that the possibility of introducing forced labor for beneficiaries of financial social assistance was only formally and temporarily abolished by this decision, see the section titled "Decree on Measures for the Social Inclusion of Financial Social Assistance Beneficiaries – a Bylaw Introducing Forced Labor Without a Legal Basis."

In 2023, a further positive step was the alignment of subordinate legislation with higher-ranking legal acts, aimed at ending the unlawful practice of reducing or terminating financial social assistance due to income generated through seasonal work.[50] However, in 2024, evidence showed that the unlawful inclusion of seasonal work income in means-testing procedures for determining eligibility for financial social assistance remains widespread, continuing to result in unjustified reductions or terminations of this support.

The amount of financial social assistance (FSA) remains inadequate and insufficient to enable individuals to escape poverty, and so low that individuals and families entitled to financial social assistance are unable to secure the existential minimum necessary for a dignified life. In October 2024, the nominal monthly amount of financial social assistance for a single adult was RSD 11,919, while the minimum consumer basket exceeded RSD 54,000. This stark discrepancy highlights the substantial gap between the level of state support and the actual resources needed to meet essential living needs. Although the assistance is adjusted twice a year, this mechanism does little to address the gravity of the situation. For example, compared to October 2023, the amount increased by only four euros. The most recent adjustment raised the assistance by just RSD 245 — barely enough to cover the cost of two liters of milk.[51]

Despite already being insufficient, the amount of financial social assistance is frequently subject to arbitrary reductions, including through the attribution of presumed foregone income[52] or through

50 Following the appeal submitted by the A 11 Initiative in March 2023, the Minister of Labor, Employment, Veteran and Social Affairs amended the Rulebook on Forms. These amendments brought the Rulebook into alignment with the legislation regulating engagement in seasonal work. As a result, income from seasonal work will no longer be taken into account when calculating earnings relevant for acquiring the right to financial social assistance. For further details, see the subsection titled "Unlawful Inclusion of Income from Seasonal Work in the Assessment of Eligibility for Financial Social Assistance, Despite Amendments to Unlawful Secondary Legislation".

51 See also: A 11 Initiative, World Day of Social Justice: A Country of Increasing 'Economic Strength' Where More and More People Are Going Hungry, 20 February 2025, available at: https://www.a11initiative.org/svetski-dan-socijalne-pravde-drzava-sve-vece-ekonomske-snage-u-kojoj-je-sve-vise-gladnih/.

52 See Article 102 of the Law on Social Protection and the Rulebook on Forms in the Process of Obtaining Financial Social Assistance (Official Gazette of the RS, No. 90/2024).

interruptions in disbursement[53]. Certain legal provisions[54] allow for termination of financial social assistance, even in cases where such action results in the complete loss of the means necessary to ensure a basic standard of living.

In the area of financial support for families with children, eligibility conditions for the parental allowance remain structured in a way that excludes the most vulnerable Roma children from accessing this right. In parallel, the restriction on the number of children per family eligible for the child allowance increases the risk of further marginalization and lack of adequate support for large families who, based on data concerning ethnicity, housing vulnerability, educational attainment, and employment status, belong to the most disadvantaged groups with children.

The conditions for receiving parental allowance under the Law on Financial Support to Families with Children (hereinafter: LFSFC) have not been amended yet, despite their exclusionary effect on the most marginalized Roma children—a concern highlighted, among others, by the United Nations Committee on Economic, Social and Cultural Rights. The Constitutional Court missed the opportunity to contribute to amending the contested eligibility conditions for the parental allowance and to consider whether they constitute indirect discrimination against Roma children, when it ruled on the initiatives to assess the constitutionality of these conditions in 2022.[55] This, despite the fact that the UN Committee had previously expressed concern over precisely those provisions of the LFSFC and their impact on Roma children.[56]

In early 2022, the Strategy for Deinstitutionalization and Development of Community-Based Social Protection Services for the period

53 Article 85(3) of the Law on Social Protection.
54 See, for example, Article 83(1)(2) of the Law on Social Protection (Official Gazette of the RS, Nos. 24/2011 and 117/2022 – Constitutional Court Decision).
55 Constitutional Court, Decision IUz 229/2018, published in the Official Gazette of the RS, No. 66/2022 of 10 June 2022.
56 UN Committee on Economic, Social and Cultural Rights, Concluding Observations on Serbia's Third Periodic Report, 6 April 2022, E/C.12/SRB/CO/3, para. 50.

2022–2026 was adopted, followed by the corresponding action plan. However, **the absence of a Social Protection Strategy** remains a persistent issue for nearly a decade and a half. Although work resumed on the new strategy in 2024,[57] the very process of drafting the strategy has already been burdened by numerous shortcomings, including an inadequate approach and irregularities in involving interested stakeholders in the development of this strategic document, as well as failures to invite to working meetings the associations that had been granted membership in the Working Group for the preparation of the Draft Social Protection Strategy.[58] In addition, professional associations were not permitted to participate in the work of the Working Group for drafting the Strategy, despite the fact that such participation is mandated by the Law on the Planning System,[59] and was also one of the steps proposed under the initiative for improving social protection. Namely, the Association of Social Workers of Serbia and the organization "Sociativa" launched an initiative in March 2024 to improve

57 In April 2024, the Ministry of Human and Minority Rights and Social Dialogue, in cooperation with the Ministry of Labor, Employment, Veteran and Social Affairs, issued a public call inviting civil society organizations to participate in the Working Group for drafting the Social Protection Strategy. The call is available at: https://minljmpdd.gov.rs/javni-poziv-organizacija-ma-civilnog-drustva-za-ucesce-u-radnoj-grupi-za-izradu-predloga-strategije-socijalne-zastite/. Although the drafting of the Social Protection Strategy for 2019–2025 began in 2018, it was never adopted. For further details, see Sociativa, *Research Findings and Key Aspects for Adopting a Social Protection Strategy*, Belgrade, June 2024, available at: https://www.sociativa.org.rs/wp-content/uploads/2024/07/Nalazi-istrazivanja-i-kljucni-aspekti-za-donosenje-Strategije-socijalne-zastite.pdf, p. 4 ff.

58 Following the public call for nominating candidates to participate in the Working Group for drafting the Social Protection Strategy, the A 11 Initiative was, through the publication of a ranked list in April 2024, included among the organizations whose representatives would take part in the development of this strategic document. However, more than six months after the Working Group was formed—in April 2024—no information was provided regarding its functioning or the commencement of its work. On 3 December 2024, representatives of the A 11 Initiative sent an e-mail to the Ministry of Labor, Employment, Veteran and Social Affairs to inquire about the progress in the drafting of the Strategy and the future activities of the Working Group. No response was received. Subsequently, the relevant ministry failed to properly invite the A 11 representatives to the first working meeting of the Group, held on 17 December 2024—the invitation was sent to a non-existent email addresses, instead of the correct ones that had been provided at the time of their nomination for membership in the Working Group).

59 Article 43 of the Law on the Planning System (Official Gazette of the RS, No. 30/2018), which governs the obligation to conduct consultations during all stages of public policy document drafting, states in paragraph 1 that the competent proposer must enable participation of all interested parties and target groups in consultation processes during the development of a public policy document. Depending on the scope of the document, interested parties and target groups may include citizens, business entities, associations, civil society organizations, research or professional organizations, and representatives of state authorities, local governments, and other stakeholders involved in the planning system.

the social protection system, drafting a document entitled *Initiative for the Improvement of the Social Protection System*, which gathered support from 25 non-governmental organizations, professional associations, and trade unions, as well as 900 individuals.[60] The Initiative was submitted to the competent ministries on the occasion of the International Day of Social Work, observed on 19 March 2024. However, even after two follow-up attempts, no response was received from the relevant ministries.[61] The Initiative outlines objectives designed to contribute to the improvement of professional procedures, the more adequate exercise of rights, the betterment of employees' working conditions, and the enhancement of support provided to beneficiaries in a manner that respects their dignity.[62]

Amendments to the Law on Social Protection, announced more than nine years ago, have still not been adopted.[63] The need to amend this overarching law in the area of social protection has been emphasized on multiple occasions by the Commissioner for the Protection of Equality.[64] The European Commission also recalled in its 2024 Serbia Progress Report that both the new Social Protection Strategy and amendments to the Law on Social Protection are significantly overdue.[65] . The "Initiative for the Improvement of the Social Protection System" includes, among its proposed steps, a revision of existing laws and bylaws governing social protection, with the aim of identifying deficiencies and proposing improvements.[66] The Commissioner for the Protection of Equality reiterates that the process of drafting or amending this law must include an assessment of the impact of

60 More details and the text of the *Initiative for Social Protection*, supported by A 11 Initiative, are available at: https://sites.google.com/view/inicijativazasocijalnuzastitu/tekst-inicijative.
61 For more information, see: https://www.inicijativazasocijalnuzastitu.rs/tekst-inicijative.
62 *Ibid.*
63 Initiative for Economic and Social Rights, *Second Order Rights – Economic and Social Rights in the Context of Austerity Measure*s, op. cit., p. 13.
64 Recommendations made by the Commissioner for the Protection of Equality to the Ministry of Labor, Employment, Veteran and Social Affairs. See, for example, a recommendation available at: https://ravnopravnost.gov.rs/rs/894-2024-inicijativa-za-izmene-i-dopune-zakona-o-socijalnoj-zastiti/ kao i: https://ravnopravnost.gov.rs/rs/134-24-preporuka-mera-csr-zbog-izmestanja-dece-iz-siromasnih-porodica/.
65 European Commission, *Serbia Report 2024*, available at: https://enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf, p. 14.
66 For more information see: https://www.inicijativazasocijalnuzastitu.rs/tekst-inicijative.

regulations on the exercise of the rights of socioeconomically disadvantaged persons or groups, in accordance with Article 14 of the Law on the Prohibition of Discrimination.[67]

In July 2022, the Ministry of Labor, Employment, Veteran and Social Affairs prepared an ex-ante analysis of the effects of social protection policy for the period 2022–2030.[68] This analysis also highlights that one of the key recommendations is the adoption of a new Social Protection Strategy, which would serve as a fundamental document to define the future directions of action in the area of social protection.[69] In addition to the lack of public policies targeting poverty reduction and social inclusion, as of January 2022, **the institutional capacities for social inclusion and poverty reduction** were further diminished. In 2009, the Government of the Republic of Serbia established the Social Inclusion and Poverty Reduction Unit (SIPRU),[70] a project unit financed by international organizations. Its mandate was to strengthen the Government's capacity 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 funding its operation expired, and the Government discontinued its financing.[71] In April 2022, during the review of Serbia's third periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights, the United Nations Committee on Economic, Social and Cultural Rights expressed regret and concern over the dissolution of the Social Inclusion and Poverty

67 Commissioner for the Protection of Equality, *Initiative for Amendments to the Law on Social Protection*, No. 011-00-382/2024-02 of 31 October 2024, available at: https://ravnopravnost.gov.rs/rs/894-2024-inicijativa-za-izmene-i-dopune-zakona-o-socijalnoj-zastiti/.

68 Ministry of Labour, Employment, Veteran and Social Affairs, *Ex-ante Analysis of the Effects of Social Protection Policy for the Period 2022–2030*, July 2022, available at: https://www.minrzs.gov.rs/sites/default/files/2022-09/Ex%20ante%20%D0%B0%D0%BD%D0%B0%D0%BB%D0%B8%D0%B7%D0%B0%20%D0%A1%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8%D1%98%D0%B0%20%D1%81%D0%BE%D1%86%D0%B8%D1%98%D0%B0%D0%BB%D0%BD%D0%B5%20%D0%B7%D0%B0%D1%88%D1%82%D0%B8%D1%82%D0%B5-%20%D1%84%D0%B8%D0%BD%D0%B0%D0%BB.pdf.

69 *Ibid.*, 48.

70 More information about the Social Inclusion and Poverty Reduction Unit is available at: http://socijalnoukljucivanje.gov.rs/.

71 Social Inclusion and Poverty Reduction Unit, *Twelve Years of Work of the Social Inclusion and Poverty Reduction Unit of the Government of the Republic of Serbia*, available at: http://socijalnoukljucivanje.gov.rs/rs/dvanaest-godina-rada-tima-za-socijalno-ukljucivanje-i-smanjenje-siromastva-vlade-republike-srbije/.

Reduction Unit, as well as over the absence of a concrete policy and institutional framework for poverty reduction.[72] The Committee recommended that the State adopt a framework poverty reduction policy, with a particular focus on individuals experiencing structural poverty, including Roma, members of national minorities, persons with disabilities, and internally displaced persons. It also recommended the establishment of a mechanism to coordinate and monitor the implementation of poverty reduction policies, and that the State allocate sufficient resources for poverty reduction measures and design them in such a way that they effectively reach people living in poverty.[73] However, shortly after receiving these recommendations, the implementation of the Law on the Social Card produced the opposite effect – the number of financial social assistance beneficiaries was reduced by over 27,000 individuals in 2022, and by 2023, the number of people who lost their beneficiary status reached 40,000.[74] By the end of 2024, the number of people who lost their status as beneficiaries of the social protection system had reached nearly 60,000[75] – without any corresponding reduction in the poverty rate.

By August 2024, a total of 656,679,550 dinars had been spent on the procurement, modification, and upgrading of the Social Card information system.[76] Expenditures for social protection and budget transfers as a share of GDP continue to decline.[77] When considering only expenditures within programs aimed at poverty reduction, Serbia allocates less than 5% of total social protection spending – significantly less than the European Union countries and even other states in the region, where such allocations are no lower than 12%.[78]

72 Committee on Economic, Social and Cultural Rights, Concluding Observations on the Third Periodic Report of Serbia, E/C.12/SRB/CO/3, 6 April 2022, p. 54.
73 *Ibid.*
74 For more information see A 11 Initiative, (Anti)Social Cards, available at: https://antisocijalne-karte.org/.
75 Information collected via a public information request by the Ministry of Labor, Employment, Veteran and Social Affairs, Act no. 000273947 2025 13400 009 001 041 001 of 13 February 2025.
76 State Audit Institution, https://www.dri.rs/storage/newaudits/2024-5-SV%20Efektivnost%20IS%20Socijalna%20karta%20Ministarstvo%20za%20rad.pdf.
77 SILC, as cited in the European Commission's 2024 Serbia report, op. cit.
78 World Bank & UNICEF (2022), Public Expenditure Review for Social Assistance in Serbia, available at: https://www.unicef.org/serbia/media/23181/file/Pregled%20javnih%20rashoda%20za%20socijalnu%20pomoć%20u%20Srbiji.pdf

The United Nations Committee on Economic, Social and Cultural Rights also recommended that the State increase budget allocations for social protection and expand the coverage and amount of social security benefits. Similarly, the European Commission, in its 2024 Country Report for Serbia, recommended that the State increase both the coverage and adequacy of social benefits for individuals living below the poverty line, including financial social assistance and child allowances.[79] The report also recommended addressing the issue of overburdened centers for social work and eliminating administrative barriers in the application process for social assistance, particularly concerning the Roma population.[80]

In its 2024 Progress Report on Serbia, the European Commission also expressed concern about the impact on Roma and other vulnerable individuals, who are at risk of being unjustifiably excluded from social benefits, as well as about the automatic data processing carried out by the Social Card Registry, which leaves insufficient room for social workers to conduct an assessment prior to the decision-making process.[81] Means-tested social assistance programs, with strict eligibility criteria, fail to sufficiently reach the poorest individuals; a large number of children living in poverty are not covered by any type of support, and the social protection system continues to face the persistent problem of inadequate staffing.[82] The Association of Social Workers of Serbia and the Sociativa association have also highlighted the ongoing issue of a shortage of social workers.[83] In addition

79 European Commission, *Serbia 2024 Report*, available at: https://enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf, p. 14.
80 *Ibid.*
81 *Ibid.*
82 *Ibid.* European Commission, Serbia 2024 Report, available at: https://enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf, p. 14.
83 At the meeting on the Initiative to Improve Social Protection held on 17 April 2024, it was stated that the social protection system lacked approximately 1,000 workers. The text of the Initiative to Improve Social Protection further notes that, according to the estimate of the State Audit Institution (SAI), there are centers for social work operating without social workers, legal professionals, pedagogues, or psychologists. More details are available at: https://www.inicijativazasocijalnuzastitu.rs/tekst-inicijative. See also: State Audit Institution, *Efficiency of Centers for Social Work in Providing Social and Family Legal Protection*, 15 December 2023. See also: *Politika*, "Centers for Social Work Operating Without Social Workers," 19 January 2024, available at: https://www.politika.rs/scc/clanak/594976/Centri-za-socijalni-rad-rade-i-bez-socijalnih-radnika.

to staffing deficiencies, employees in some centers for social work lack even the most basic working resources—they often do not have enough printing paper or printer cartridges.[84] Equally concerning are earlier findings of the State Audit Institution, obtained during a performance audit titled "Efficiency of Centers for Social Work in Providing Social and Family Legal Protection." Specifically, while the number of active users of centers for social work services is increasing, the number of employees has been continuously declining. Between 2013 and 2022, the number of permanent employees decreased by 18.2%, and the number of professional staff decreased by 13.6%.[85] At the very end of 2022, the total number of professional staff employed on a permanent basis was 1,671, while the total number of users of the social protection system has not fallen below 700,000 for several years. This numerical imbalance undermines the very foundations of social work, as it prevents the profession from being carried out in Serbia in the best interests of service users, and it reveals a systemic lack of concern on the part of decision-makers toward the social protection system. Even more striking are the findings of the State Audit Institution indicating that, on average, between 2020 and 2022, eight centers for social work operated without a single social worker, 21 centers had no legal professional, 17 had no psychologist, and 57 had no pedagogue.[86]

The inadequacy of social benefits has been highlighted for many years, including in the observations of the European Committee of Social Rights, which already in 2017 assessed that **the amount of social assistance** to which economically disadvantaged individuals in Serbia are entitled is **manifestly inadequate**, as it does not exceed the poverty threshold.[87] Although the Committee concluded in 2017

84 Focus group with social workers from centers for social work conducted by the A 11 Initiative in September 2024.
85 Republic Institute for Social Protection (2023), *Report on the Work of Centers for Social Work for 2022*, Belgrade, pp. 5–6.
86 State Audit Institution, *Efficiency of Centers for Social Work in Providing Social and Family Legal Protection*, p. 28.
87 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 2017, financial social assistance for an individual, i.e. the rights holder, amounted to RSD 8,201.

that such a situation was in breach of the obligations under the (Revised) European Social Charter[88], the amount has not been significantly changed since. Thus, as of October 2024, the nominal amount of financial social assistance for an individual, i.e. the right holder in a household, stood at RSD 11,919.[89] For able-bodied individuals or households in which the majority of members are deemed able to work, this monthly amount was approximately EUR 76 (around RSD 8,900), taking into account that financial social assistance is received for only nine months of the year.[90] Namely, the Law on Social Protection currently in force includes a provision that prescribes **three-month interruptions in the receipt of financial social assistance** for able-bodied individuals and households in which most members are capable of working. Article 85, paragraph 3 of the Law stipulates that a person who is able to work, or a household in which the majority of members are able to work, is entitled to **financial social assistance for a period of up to nine month**s in a calendar year. Neither of the two versions of the Draft Law on Amendments to the Law on Social Protection published so far has proposed the removal of this provision, despite the fact that the Committee on Economic, Social and Cultural Rights has identified these interruptions in the receipt of financial social assistance as one of the key issues inconsistent with the obligations arising from Article 9 of the Covenant.[91]

The Ex-ante Analysis of the Effects of Social Protection Policy in the Period 2022–2030 also emphasizes that, taking into account the at-risk-of-poverty threshold, families in the Republic of Serbia for whom financial social assistance is the sole source of income receive 40% less than what would be required to reach the poverty risk thresh-

88 *Ibid.*
89 Minister of Labor, Employment, Veteran and Social Affairs, *Decision on the Nominal Amounts of Financial Social Assistance*, "Official Gazette of the RS," No. 104/2024, of 28 October 2024.
90 For the same assessment in 2017, see: 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. It was concluded that the monthly financial social assistance for able-bodied individuals, i.e. families in which the majority of members are able-bodied, amounted to EUR 47.
91 Committee on Economic, Social and Cultural Rights, *Concluding observations on the second periodic report of Serbia*, 10 July 2014, *op. cit.*

old.[92] The adequacy of the amount of financial social assistance is also insufficient from the perspective of meeting basic needs or escaping absolute poverty.[93]

The amount of forgone earnings—attributed by centers for social work (CSWs) to able-bodied individuals and used as grounds for reducing or terminating financial social assistance—has been growing much faster than the actual amount of social benefits. As in previous years[94], in 2024 the A 11 Initiative encountered numerous cases in which applications for financial social assistance were rejected or the amount granted was significantly reduced due to **excessively high and arbitrarily calculated forgone earnings**. The experience of the A 11 Initiative shows that, compared to 2022 and 2023, the situation regarding the calculation of forgone earnings has further deteriorated and that this criterion has become an almost insurmountable obstacle to obtaining financial social assistance for able-bodied individuals and households where the majority of members are considered able to work. Following a period of temporary stagnation during the establishment of the Social Card System in 2022 and 2023, the practice of attributing unrealistically high amounts of forgone earnings

92 Ministry of Labor, Employment, Veteran and Social Affairs, *Ex-ante Analysis of the Effects of Social Protection Policy in the Period 2022–2030*, op. cit., p. 20.
93 *Ibid*.
94 As early as 2019, 2020, and 2021, the A 11 Initiative encountered cases where applications for financial social assistance (FSA) were rejected due to the attribution of unrealistically high amounts of foregone earnings—for example, RSD 14,720 (Decision of the City Center for Social Work in B., No. 55310-8819/2021 of 7 October 2021), RSD 15,000 (Decision of the Center for Social Work in B., No. 3280/2019 of 17 October 2019), RSD 12,000 (Decision of the City Center for Social Work in B., No. 55310/6441/2019 of 23 January 2020), or even RSD 25,760 for a family (Decision of the City Center for Social Work in B., No. 5310-985/2020). The application of a single mother living with her four-year-old child in an informal settlement, in an unlegalized shack, with no property of any significant value, was rejected because she was attributed foregone earnings of RSD 14,720—an amount that exceeds the value of financial social assistance. (Decision of the City Center for Social Work in B., No. 55310-8819/2021 of 7 October 2021). The application of another single mother living with four minor children was rejected because she was attributed foregone earnings of as much as RSD 22,080. In her case as well, the foregone earnings were calculated based on job rates offered by the youth cooperative "Bulevar," even though the applicant is in her forties and is not even theoretically eligible for engagement through a youth cooperative, as the upper age limit for such engagement is 30 years. (Decision of the City Center for Social Work in B., No. 55310/7399/2021 of 10 August 2021). Following a temporary pause during the period of establishing the Social Card System in 2022 and 2023, as of 2024, the practice of attributing excessively high amounts of foregone earnings has once again become one of the main obstacles in procedures for exercising the right to financial social assistance. In 2024, the amount of foregone earnings frequently exceeds RSD 20,000 or even 30,000.

has, as of 2024, once again emerged as one of the main barriers in procedures for exercising the right to financial social assistance.

For example, Nada, who lives in an informal settlement with her common-law husband and eight children, has been unable to exercise her right to financial social assistance for over a year due to the arbitrary attribution of foregone earnings. Her initial application for FSA was rejected on the grounds of income from the sale of recyclable materials and the presumed foregone earnings of RSD 22,400, which her husband was allegedly able to earn. Nada filed an appeal, which was upheld by the second-instance body, resulting in the annulment of the decision and the case being returned for reconsideration. The only change in the new decision, compared to the previous one, was the amount of foregone earnings. Whereas the first (annulled) decision found that Nada's common-law partner could work seven days per month and earn RSD 22,400, the new decision concluded that he could work ten days per month and earn RSD 32,000. The fact that the same authority, for the same person and time period, determined different amounts of foregone earnings without any new evidence or evaluation clearly illustrates the arbitrary approach to determining these amounts. Following the submission of her appeal, Nada explained in her statement that her husband was unable to take on any additional work during the relevant period, as in addition to engaging in informal economic activities, he had to care for their seven children. Nada experienced a high-risk pregnancy that required complete bed rest, and during that time, her husband was solely responsible for caring for the other children. The second appeal procedure concluded with the appeal being upheld and the case returned to the center for social work for reconsideration. One year later, the procedure remains ongoing, illustrating how the arbitrary attribution of foregone earnings has become an impermissible barrier to the realization of the right to financial social assistance.

Tihana has also had her application for financial social assistance rejected three times, due to the arbitrary attribution of excessively high foregone earnings to her husband. Tihana is unable to work and lives with her daughter and husband, who also suffers from health prob-

lems. Her application was denied on three separate occasions. The inconsistencies and arbitrariness of the actions of the center for social work are clearly reflected in the fact that the assessments of her husband's potential employment varied in each of the three decisions, even though they concerned the same reference period and were based on identical life circumstances and supporting evidence. According to the first decision, Tihana's husband could allegedly earn RSD 36,000 by working eight hours a day for 15 days per month. In the second decision, it was stated that the family had received financial assistance from relatives, while her husband was presumed to have foregone earnings of RSD 14,400 by working four hours per day for 12 days per month. In the third decision, the attributed foregone earnings increased to RSD 26,400, which he was allegedly capable of earning by working eight hours per day for 11 days per month. Thus, the same individual, during the same reference period and with the same (in)capacity for employment, was considered by the first-instance authority to be able to earn different amounts of income depending solely on the timing of the decision. This clearly indicates a tendency to assign an amount that disqualifies the applicant from entitlement, rather than one that reflects a realistically achievable income. The most recent rejection was issued in August 2024, while the first was issued in early 2023. At the time of finalizing this report, the third repetition of the first-instance procedure is ongoing.

In practice, foregone earnings are not calculated based on the actual opportunities available to socially vulnerable individuals to secure employment through which they could earn the attributed amount. Rather, they are based on the wage levels paid to individuals who have successfully obtained employment. As a result, individuals who have been unable to secure any form of employment—particularly those most disadvantaged in the labor market, such as Roma women, internally displaced persons, and persons with disabilities—are left without income necessary to meet their basic existential needs.

This leads to a reduction in the number of financial social assistance beneficiaries or a reduction in the amounts disbursed, but not

through employment or improvement of beneficiaries' labor market status. Instead, it occurs through the arbitrary attribution of foregone earnings. Needless to say, the termination or reduction of social benefits has severe consequences for individuals who are unable to generate any income and who have no other means to secure a minimum standard of living.

Problems related to the arbitrary attribution of foregone earnings are further exacerbated by the absence of limits on the possibility of returning a case for repeated proceedings within the administrative procedure governing FSA entitlement. Namely, when an appeal is lodged due to arbitrarily attributed, excessively high foregone earnings, the appeal is usually upheld, the decision annulled, and the case returned to the first-instance body—the center for social work—for a new decision. However, in repeated proceedings, the center often once again arbitrarily attributes an unrealistically high amount of foregone earnings, thereby preventing the realization of the right to FSA. This then necessitates the submission of a new appeal and further waiting for a decision. At the same time, the second-instance body almost never decides on the merits of the case itself—although it formally has the authority to do so—but rather returns the case to the first-instance body, which significantly prolongs the proceedings. This is especially problematic in cases where it is evident that the first-instance body is acting arbitrarily or fails to follow the instructions issued by the second-instance authority to rectify identified deficiencies. Considering that appeal proceedings almost never take less than two months, and that the first-instance body usually requires a similar amount of time, this results in the right to FSA remaining inaccessible for more than six months, or even longer than a year. In this way, unjustified obstacles are created, and the procedure for realizing a right of existential importance to applicants is significantly complicated. According to the principles outlined in Articles 26, 28, and 29 of the Law on Social Protection, the procedure should be in the best interest of the beneficiary, timely, and efficient. The described back-and-forth transfer of jurisdiction between the first- and second-instance bodies, which often continues for several years, is

fundamentally contrary to the best interest of the beneficiary and the principles of efficiency and timeliness.

Among the beneficiaries who contacted the A 11 Initiative in 2024 regarding the reduction or loss of FSA, the primary reasons—apart from arbitrarily attributed foregone earnings—were related to the implementation of the Law on the Social Card or the unlawful inclusion of seasonal work income in the calculation of total income, which affects entitlement to FSA. Termination or reduction of FSA through the Social Card system generally occurs due to errors such as incorrectly attributed income or the consideration of income that should not affect eligibility for social benefits.[95] The consequences mirror those associated with foregone earnings: the loss or reduction of social assistance for vulnerable individuals.

In practice, the A 11 Initiative has encountered cases that illustrate how both the Social Card registry and the concept of foregone earnings are used interchangeably to reduce or terminate FSA.[96] This is most clearly demonstrated by procedures in which the FSA amount was initially reduced because the Social Card erroneously registered as income earnings that should not affect FSA eligibility (such as income from seasonal work). Following an appeal and the return of the case for reconsideration, CSW then reduced the amount of FSA based on "foregone monthly earnings from seasonal work" (sic!).[97] Thus, individuals who had, in fact, earned income from seasonal work had their FSA reduced because the CSW determined that they had *failed* to earn income from seasonal work. This clearly indicates that the sole purpose of the provisions on foregone earnings is to reduce the amount of FSA, without any attempt to determine whether earning opportunities actually existed or whether the individual had made use of all available opportunities to earn income. Furthermore, such

95 For more information see the subsection "The Social Card Law".
96 For more information see the subsection "Unlawful Inclusion of Income from Seasonal Work in Assessment of Eligibility for Financial Social Assistance and Appeal for Amendments to the Unlawful Secondary Legislation".
97 Decision of the CSW N. K. dated 24 March 2023 and 22 November 2022. In the decision of the CSW O., no. 553-01-12876/2024 dated 11 April 2024, the A. family was attributed an average foregone monthly income of RSD 12,500 from seasonal work.

actions by the CSW constitute a deliberate misuse of legal provisions and an abuse of discretionary powers in the evaluation of evidence.

On the other hand, beneficiaries who are unable to work must sue their relatives in order to obtain FSA,[98] and examples encountered by the A 11 Initiative in 2024 show that the amounts awarded by courts in such cases—which trigger judicial proceedings and compel applicants to sue their relatives—sometimes amounted to less than three euros.

For elderly households, inadequate coverage by financial social assistance is partly a consequence of the strict application of asset-based eligibility criteria.[99] A relaxation of these criteria could expand program coverage and reduce poverty among the elderly population.[100] In a recommendation addressed to the Ministry of Labor, Employment, Veteran and Social Affairs (MLEVSA) in October 2024, the Commissioner for the Protection of Equality recalled that as early as 2018, an initiative had been submitted to amend Article 82(1)(1) of the Law on Social Protection.[101] This initiative emphasized that, in addition to increasing the permissible land area in the determination of FSA eligibility, it is also necessary to take into account the quality of the land and the possibility of cultivating, leasing, or selling it.[102] The rationale for initiating this proposal lies primarily in the fact that elderly households with landholdings exceeding the current threshold are often at risk of poverty.[103] The Fiscal Council has likewise indicated the need to relax overly strict asset-based criteria for receiving FSA in the case of elderly households, such as increasing the permitted landholding from 1 to 10 hectares.[104]

98 Article 84 of the Law on Social Protection.
99 See also Sociativa, "*Research Findings and Key Aspects for the Adoption of the Social Protection Strategy*," op. cit., p. 9.
100 *Ibid*.
101 Commissioner for the Protection of Equality, "*Initiative for Amendments to the Law on Social Protection*," No. 011-00-382/2024-02 of 31 October 2024, op. cit.
102 *Ibid*.
103 *Ibid*.
104 Fiscal Council, *Proposed Measures of Social and Tax Policy for Reducing Inequality and the Risk of Poverty in the Republic of Serbia*, Belgrade, 29 September 2022, available at: https://www.fiskalnisavet.rs/doc/analize-stavovi-predlozi/2022/FS_Predlog%20mera%20socijalne%20i%20poreske%20politike.pdf, p. 2.

The Commissioner for the Protection of Equality has also highlighted the need to reassess the exclusionary condition from Article 82(1)(2) of the Law on Social Protection, which disqualifies individuals or families from receiving FSA if they have sold, donated, or waived their right to inherit immovable property.[105] This condition particularly affects women, as traditional gender roles and norms—where custom continues to override legal inheritance rights—remain deeply rooted in practice, resulting in expectations that women will renounce their inheritance in favor of male relatives.[106] Many citizens are unaware that even waiving a minimal inheritance can prevent them from exercising their right to social protection for an extended period.[107]

Among the obstacles to accessing financial social assistance, the unjustified refusal by certain branches of the National Employment Service to register individuals who have not completed primary education or cannot provide proof thereof has also been noted.[108] While proof of completed primary education may be a requirement for employment in certain jobs or with particular employers, it should not constitute a ground for denying individuals their constitutionally guaranteed right to work, nor for denying access to financial social assistance by preventing them from being registered as unemployed.

A significant issue also concerns ***the unlawful prevention of beneficiaries whose right to financial social assistance has been terminated from submitting a new application while an appeal procedure is ongoing.*** Namely, in cases where a decision has been made to terminate the right to financial social assistance and an appeal has been submitted against that decision, the prevailing practice among centers for social work is to refuse to accept a new application for the same right until a second-instance decision has been issued —a process that frequently takes more than six months, and sometimes even longer. In most cases, centers for social work reject new appli-

105 *Ibid.*
106 *Ibid.*
107 *Ibid.*
108 Interview with F. K., 1 November 2022; interview with R. K., December 2022; interview with residents of the Č. settlement, 30 August 2023; interview with residents of the U. settlement, 21 August 2024.

cations orally, even though they are legally required to formally assess the application, issue a written decision, and deliver it to the applicant.[109]

As a result of this practice, beneficiaries are unjustifiably forced either to withdraw their appeal in order to be allowed to submit a new application for financial social assistance, or to continue with the appeal process while being prevented from applying for financial social assistance until the appeal is resolved. In its response to a request for a legal opinion submitted by the A 11 Initiative, the Ministry of Labor, Employment, Veteran and Social Affairs confirmed that such a practice is not legally justified. The Ministry stated that there is no legal ground for denying a person the right to submit a new application for financial social assistance solely because they have filed an appeal against the decision of the center for social work terminating their right to this benefit, but no decision has yet been made by the second-instance authority[110] This unlawful practice of preventing the submission of a new application for financial social assistance while an appeal filed by the same applicant is pending—an appeal submitted against the decision terminating their right to the benefit—is particularly common in cases where the termination resulted from the application of the Social Card Law. Although the A 11 Initiative had access to the aforementioned legal opinion in 2023, which beneficiaries could attach as evidence of their right to submit a new application for financial social assistance during the ongoing appeal procedure, pressure on applicants to withdraw their appeals persisted throughout 2023. As a result, beneficiaries frequently withdrew their appeals, primarily due to concerns about their future treatment by the centers for social work. In 2024, the A 11 Initiative did not record any cases in-

109 However, the period relevant for decision-making is not the same in the case of an appeal decision and the decision on a new application. When deciding on a new application, the first-instance authority assesses the fulfilment of eligibility conditions based on the three-month period preceding the submission of the application, whereas in the appeal procedure, the decision is made based on the conditions that existed at the time of the issuance of the decision on the termination of the right to financial social assistance. These two points in time may differ significantly—by more than six months—and, consequently, there may be a difference in the eligibility and grounds for exercising this right.

110 Opinion of the Ministry of Labor, Employment, Veteran and Social Affairs, No. 553-00-00250/2023-10 of 30 March 2023.

volving beneficiaries who attempted to submit a new application for financial social assistance while an appeal procedure was ongoing; therefore, it does not have information on whether the same practice continued during 2024.

One of the few positive developments in the area of social protection in recent years was the decision of the Constitutional Court, which in October 2022 annulled the legal basis for adopting the Regulation on Measures for the Social Inclusion of Financial Social Assistance Beneficiaries. This regulation had envisaged the reduction or complete termination of financial social assistance for beneficiaries who failed to participate in activation measures introduced on the basis of this secondary legislation.

Unconstitutional Decree on Measures for the Social Inclusion of Financial Social Assistance Beneficiaries — Eight Years of Forced Labor for Financial Social Assistance Beneficiaries

In October 2014, the Government of the Republic of Serbia adopted the *Decree on Measures for the Social Inclusion of Financial Social Assistance Beneficiaries*, which, among other provisions, stipulated that able-bodied beneficiaries of financial social assistance could, by order of the center for social work, be included in community service, i.e., work within the local community. Beneficiaries who refused to participate in such activation measures could have their legally guaranteed financial social assistance reduced or terminated.[111] Due

111 See Article 4 of the Decree. A study conducted by the A 11 Initiative in 2018 found that thousands of recipients of financial social assistance were compelled to perform unpaid work in order to access their constitutionally guaranteed right to social protection. The implementation of this Decree varied across municipalities.

to its discriminatory nature, the introduction of forced labor, and the threat it posed to the subsistence of socially vulnerable citizens, three initiatives were submitted in October 2014, as well as a proposal by the Protector of Citizens for a review of the Decree's constitutionality. However, the Constitutional Court failed to act on these initiatives and proposals for more than seven years.[112] Finally, in October 2022, instead of deciding on the aforementioned initiatives and proposals for a review of the constitutionality of the contested Decree, the Constitutional Court initiated proceedings ex officio and adopted a decision declaring Article 80, paragraphs 3 and 4 of the Law on Social Protection unconstitutional. These provisions relate to social inclusion measures and the possibility of reducing or terminating the right to material support in cases of non-participation in such measures.[113] These legal provisions served as the basis for the adoption of the Decree on Measures for the Social Inclusion of Financial Social Assistance Beneficiaries. As a result, the Decree was indirectly repealed, as the legal basis for the adoption of this subordinate legislation was annulled. Specifically, Article 80, paragraph 4 provided that social inclusion measures shall be regulated by the Government, while paragraph 3 stipulated that a center for social work may conclude an agreement with a beneficiary of financial support regarding the active overcoming of his or her adverse social situation—an agreement that could include provisions for the reduction or termination of the right to financial support in the event of unjustified non-compliance with the obligations contained therein. These provisions of the Law formed the legal basis for the Decree on Measures for the Social Inclusion of Financial Social Assistance Beneficiaries.

The Constitutional Court examined the constitutionality of the above-mentioned provisions of the Law from the following perspectives: whether the Constitution permits the regulation of social

112 A 11 Initiative, *Second-Class Rights*, op. cit., p. 14.
113 Decision of the Constitutional Court of the Republic of Serbia, No. IUz-332/2015, which determined that the provisions of Article 80, paragraphs 3 and 4 of the Law on Social Protection are not in accordance with the Constitution. The decision was published in the "Official Gazette of the Republic of Serbia", No. 117/2022.

inclusion measures through a subordinate act of the Government; whether the principle of the rule of law allows for the reduction or termination of the right to financial support to be subject to an agreement between centers for social work and beneficiaries of the social protection system; whether these provisions are in accordance with the principle of equality before the law; and whether the legislator was obliged to regulate in detail the termination or reduction of beneficiaries' rights, rather than delegating such regulation to subordinate legislation. The Court concluded that the regulation of social inclusion measures must be established by law, and that the reduction or termination of the right to material support cannot be the subject of agreement between the beneficiary and the center for social work. Instead, the law must prescribe the conditions under which a right, previously established by a final decision of the competent authority, may be reduced or terminated.

Although the decision of the Constitutional Court eliminated the legal basis for adopting the contested Decree, the Court failed to address the substantive questions and provide an assessment on the permissibility of imposing unpaid, involuntary work on recipients of financial support and the compatibility of such work with the Constitution and ratified international treaties. Since 2014, concerns have been continuously raised that imposing work obligations under the threat of losing or reducing social assistance is inconsistent with obligations contained in the International Labor Organization Convention No. 29 of 1930, the European Convention on Human Rights, the Revised European Social Charter, and the International Covenant on Economic, Social and Cultural Rights. Judging by earlier versions of the Draft Law on Amendments to the Law on Social Protection and the language of the Constitutional Court's decision, there is a well-founded concern that this matter—which implies that social assistance must be "earned"—could be incorporated into the new Law on Social Protection.[114] Such a development would result in the permanent erosion of the fundamental principles of social protection currently in place. Unfortunately, the

114 For more information, see the A 11 Initiative, *Second-Class Rights – Social Rights in the Context of Austerity Measures*, op. cit., pp. 13 and 17.

Constitutional Court failed to take a position on these matters. Nevertheless, it must be stressed that introducing a legal obligation to work for able-bodied recipients of financial social assistance would be contrary to the state's international obligations regarding the prevention of forced labor and discrimination.

The Law on Financial Support to Families with Children — The Most Frequently Reviewed Regulation by the Constitutional Court in the Past Six Years

Shortly after the entry into force of the Law on Financial Support to Families with Children (LFSFC)[115] and the adoption of its amendments on 1 July 2018, a series of public protests followed, aiming to draw attention to numerous unjust and unconstitutional provisions introduced by the Law.[116] A proposal[117] and several initiatives[118] for constitutional review were submitted, contesting a number of provisions of the LFSFC on the grounds that they were incompatible with anti-dis-

115 Although the primary objective of the Law on Financial Support to Families with Children is not poverty reduction but rather a pronatalist policy measure, this report also examines provisions of that law which may affect the situation of children living in poverty or lead to the exclusion of children from the most vulnerable groups from accessing certain entitlements.

116 A series of protests organized by the initiative "Moms Rule" drew attention to inadequate solutions contained in the Law on Financial Support to Families with Children (LFSFC). News coverage of the protests is available at: https://rs.n1info.com/tag/mame-su-zakon/ and, for example, https://n1info.rs/vesti/a422897-protest-mame-su-zakon-u-centru-beograda/.

117 Commissioner for the Protection of Equality, "*Commissioner for the Protection of Equality Brankica Janković submitted to the Constitutional Court of Serbia a Proposal for the Constitutional Review of several provisions of the Law on Financial Support to Families with Children*," 13 September 2018, available at: http://ravnopravnost.gov.rs/rs/saopstenje-predlog-za-ocenu-ustavnosti/.

118 NORBS, "*An Initiative for the Constitutional Review of the Law on Financial Support to Families with Children has been submitted to the Constitutional Court*," available at: https://www.hrabrisa.rs/sr/dogadaji-galerija/173-ustavnom-sudu-je-podneta-inicijativa-za-ocenu-ustavnosti-i-zakonitosti-zakona-o-finansijskoj-podrsci-porodici-sa-decom. The A 11 – Initiative for Economic and Social Rights, "*A 11 Initiative submitted a request for the constitutional review of the Law on Financial Support to Families with Children*," 8 October 2018, available at: https://www.a11initiative.org/inicijativa-a-11-podnela-inicijativu-za-ocenu-ustavnosti-zakona-o-finansijskoj-podrsci-porodici-sa-decom/.

crimination legislation, the Constitution of the Republic of Serbia, and ratified international treaties.

Following the adoption of the LFSFC, in proceedings for normative review of the constitutionality of laws, the Constitutional Court deliberated more extensively and rendered the highest number of declaratory decisions precisely in connection with initiatives challenging specific provisions of this Law.[119] In response to several initiatives, **the Constitutional Court issued three decisions in late 2020 and in 2021, establishing that certain provisions of the Law were unconstitutional**. These include decisions IUz-216/18 of 3 December 2020, IUz-247/18 of 17 December 2020, and IUz-266/2017 of 15 April 2021. In addition to these decisions, the Constitutional Court issued a ruling (IUz-299/2018) on 10 March 2022 initiating a procedure to determine the constitutionality of Article 17 of the Law. In 2023, by decision IUz-299/2018, the Court found Article 17, paragraph 4 of the LFSFC unconstitutional.[120]

In May 2021, the Constitutional Court published three decisions establishing the unconstitutionality of several provisions of the Law on Financial Support to Families with Children

By decision **IUz-216/2018** of 3 December 2020[121] the Constitutional Court declared unconstitutional Article 17, paragraph 2 and Article 18, paragraphs 2, 4, and 6 of the Law on Financial Support to Families with Children, which placed insured female agricultural workers in a disadvantaged position.

By decision **IUz-247/2018** of December 17, 2020[122] the Court declared unconstitutional Article 14, paragraph 8 of the Law, which stipulated that the monthly amount of wage compensation, i.e. salary compensation during maternity leave, could not be lower than the minimum

119 See also the separate opinion of Judge Tamaš Korhec regarding the Constitutional Court's Decision No. Iuz-229/2018.
120 Decision was published in the "Official Gazette of the RS", no. 43/2023 on 26 May 2023.
121 Decision was published in the "Official Gazette of the RS", no. 46/2021 on 7 May 2021.
122 The decision was published in the "Official Gazette of the RS", no. 51/2021 on 21 May 2021.

wage, *provided that* at least six months of previous insurance coverage in an employment relationship had been recorded by the competent authority, or that at least six lowest bases on which contributions were paid on income with the character of a salary had been recorded by the competent authority (*emphasis added*). This provision was declared unconstitutional in the part that conditioned the guarantee of wage compensation, at no less than the minimum wage, on a prior insurance tenure of at least six months.

By Decision of the Constitutional Court No. IUz-266/2017 of 15 April 2021, the Court found Article 12, paragraph 7 of the Law on Financial Support to Families with Children to be unconstitutional. This provision stipulated that the right to wage (salary) compensation during work absence for the purpose of providing special childcare could not be exercised for a child for whom the right to caregiver allowance had already been granted. As a result, parents of children with disabilities were placed in a disadvantageous position and forced to choose between these two entitlements.[123] The aforementioned decisions of the Constitutional Court triggered a series of amendments to the **Law on Financial Support to Families with Children, which have been adopted nearly every year since the Law's entry into force**. Among other things, the unconstitutional provision that compelled parents of children with disabilities to choose between wage compensation and caregiver allowance was repealed.[124] Unconstitutional provisions that disadvantaged insured female agricul-

123 The decision was published in the "Official Gazette of the RS", no. 113/17 and 50/18. Decision IUz-216/2018 (published in the "Official Gazette of the RS", no. 46/2021 on May 7, 2021) of the Constitutional Court established the unconstitutionality of Article 17, Paragraph 2, and Article 18, Paragraphs 2, 4, and 6 of the Law on Financial Support for Families with Children. Finally, Decision IUz-247/2018 (published in the "Official Gazette of the RS", no. 51/2021 on May 21, 2021) established the unconstitutionality of Article 14, Paragraph 8 of the Law, which stipulated that the monthly amount of wage compensation, i.e. salary compensation during maternity leave, could not be lower than the minimum wage, provided that at least six months of previous insurance coverage in an employment relationship had been recorded by the competent authority, or that at least six lowest bases on which contributions were paid on income with the character of a salary had been recorded by the competent authority (*emphasis added*). This provision was declared unconstitutional in the part conditioning the guarantee of wage compensation at no less than the minimum wage on a prior insurance tenure of at least six months.

124 See Article 6 of the 2021 LA LFSFC.

tural workers were also amended[125], kao i neustavna odredba koja je kod naknade zarade za vreme porodiljskog odsustva donji limit u visini minimalne zarade uslovljavala prethodnim stažom osiguranja.[126] Tendencija izmena ZFPPD nastavljena je i **u 2023**. godini, kada je **utvrđena neustavnost odredbe člana 17 stav 4 ZFPPD**[127] This resulted in the equalization of the duration of financial compensation entitlements for work absences due to childbirth and childcare for mothers who were employed prior to the child's birth.[128] Specifically, while the Labor Law provides that an employed woman is entitled to leave and wage compensation for two years upon the birth of a third and each subsequent child, Article 17, paragraph 4 of the LFSFC had prescribed a one-year compensation period for mothers engaged in other forms of employment, regardless of the child's birth order.

In **2024**, another provision of the Law on Financial Support to Families with Children was found to be unconstitutional due to the unjustified disadvantage imposed on women who commenced maternity leave following pregnancy-related sick leave.[129] **The Constitutional Court found Article 13, paragraph 1 of the LFSFC unconstitutional** in the segments stating: "leave due to complications related to the maintenance of pregnancy, or" and "if leave due to complications related to the maintenance of pregnancy was not used." Under the challenged provision, the relevant 18-month period used to determine the wage compensation base during maternity leave and leave for childcare was calculated differently depending on whether a woman had been absent from work due to complications related to maintaining the pregnancy. The aforementioned distinction in the calculation

125 See Article 6 of the 2021 LA LFSFC. It is stipulated that other benefits related to childbirth, childcare and special childcare may also be granted to mothers who were agricultural insurance holders for a period of 18 months prior to the child's birth (This is a reduction from the previous requirement of 24 months, which applied before the amendments and before the distinction between women agricultural insurance holders and other insured women was declared unconstitutional).
126 Article 5 of the 2021 LA LFSFC.
127 See the decision of the Constitutional Court of Serbia, IUz-299/2018.
128 Law on Amendments to the Law on Financial Support for Families with Children, "Official Gazette of the RS", no. 62/2023 dated 27 July 2023. The law was enacted on 27 July 2023, and became applicable as of 1 August 2023, except for Article 3, amending Article 17, Paragraph 5, which was enforced as of 27 May 2023.
129 On the issue of the less favorable method of calculating wage compensation for this category of mothers, see, for example, Đorđe Popović, *Decision of the Constitutional Court in Favor of Mothers*, op. cit.

of the wage or salary compensation base resulted in women who were absent from work due to complications related to pregnancy maintenance receiving a lower amount of compensation compared to women whose pregnancies proceeded without complications requiring absence from work. The Constitutional Court found that this distinction, in terms of how the relevant 18-month reference period was calculated for determining wage/salary compensation during maternity leave and child care leave, did not pursue a legitimate aim and therefore lacked an objective and reasonable justification.[130] The Constitutional Court concluded that the challenged provision placed women who were unable to work due to complications related to pregnancy maintenance in a less favorable position compared to women whose pregnancies were without such complications.[131] With the publication of the Constitutional Court decision IUz-60/2021 on 14 February 2024, Article 13, paragraph 1 of the LFSFC ceased to be in force. Women who were placed in a less favorable position as a result of the challenged provision were given the opportunity to submit a claim for damages (due to the less favorable calculation of the wage or salary compensation ase) within six months from the date of publication of the Court's decision.

130 Constitutional Court, IUz-60/2021, 14 February 2024.

131 In the assessment of the Constitutional Court, women who were unable to work due to complications related to pregnancy were placed in a disadvantageous position by the contested provision of Article 13(1) of the Law, in comparison to women whose pregnancies proceeded without complications. This was due to the fact that, in calculating the reference period of 18 months for determining wage compensation during maternity and childcare leave, the period preceding the absence from work caused by pregnancy complications was used, rather than the 18 months preceding the start of maternity leave. *Ibid.*

The provisions of the Law on Financial Support to Families with Children that indirectly discriminate against the most vulnerable Roma children remain in force

It is necessary to address **the provisions of the Law on Financial Support to Families with Children that have not been (substantially) amended,** despite their discriminatory character having been highlighted by the UN Committee on Economic, Social and Cultural Rights.[132] These provisions primarily concern the discriminatory conditions governing entitlement to parental allowance, which have a disproportionately negative impact on Roma children. The A 11 Initiative has repeatedly approached the competent ministries, requesting amendments to the conditions for parental allowance that unjustifiably exclude and discriminate against Roma children. Amendments to these contested provisions were also included in comments on the draft amendments to the LFSFC. However, these appeals, initiatives, and comments have consistently been ignored or rejected without adequate explanation. The Constitutional Court also failed to contribute to the reform of these conditions, despite recommendations from international treaty bodies explicitly addressing the eligibility criteria for parental allowance and their impact on Roma families.

In **June 2022**, the Constitutional Court issued Decision **IUz-299/2018**, rejecting the initiatives to institute proceedings for a review of the constitutionality and compliance of Article 25 of the Law on Financial Support to Families with Children with generally accepted rules of international law and ratified international treaties. In October 2018, the

132 The A 11 Initiative, *Second-Class Rights*, op. cit. I The European Commission also addressed these provisions of the Law on Financial Support to Families with Children in its 2019 report on Serbia, noting that parental allowance was made conditional on immunization, while also pointing to disparities in vaccine coverage between Roma and non-Roma children.

A 11 Initiative submitted to the Constitutional Court an initiative for the review of the constitutionality of Article 25 of the LFSFC, which denies families the right to parental allowance if any of the children has not received all mandatory vaccinations or does not regularly attend primary school or the preschool preparatory program (hereinafter: PPP). Based on numerous studies and statistical data pointing to stark disparities in vaccination coverage and primary school/PPP attendance between Roma and non-Roma children showing that these provisions have a disproportionately negative effect on children from the most disadvantaged Roma families, the A 11 Initiative argued that these restrictions constitute indirect discrimination against Roma children.

Although seemingly neutral, these provisions have a disproportionately adverse effect on Roma children, as clearly evidenced by the data on disparities in immunization coverage and attendance in primary school and PPP between Roma and non-Roma children. According to data from the Statistical Office of the Republic of Serbia and UNICEF for 2019, early childhood education coverage among Roma children is only 7%, compared to 61% in the general population.[133] While only 3% of preschool-aged children in the general population do not attend the PPP in a timely manner, the rate among Roma children is 24%. The net preschool education attendance rate in the general population is 97%, whereas among children living in Roma settlements, it is significantly lower—76%.[134] The primary school completion rate among children living in Roma settlements is 64%.[135] A 2018 regional study on Roma by the United Nations Development Program indicates that, on average, one in six Roma children of primary school age remains outside the education system.[136] The same study shows that only 57% of Roma girls complete primary education, compared to 93% of non-Roma girls and 66% of Roma boys.

133 Statistical Office of the Republic of Serbia and UNICEF, *Multiple Indicator Cluster Survey on the Situation of Women and Children in Serbia and Multiple Indicator Cluster Survey on the Situation of Women and Children in Roma Settlements in Serbia*, Survey Findings Report, Belgrade, 2019, xvii (hereinafter: MICS 2019).
134 *Ibid.*
135 *Ibid.*
136 UNDP, *Roma at Glance – Serbia*, April 2018, available at: https://www.undp.org/sites/g/files/zskgke326/files/migration/eurasia/Factsheet_SERBIA_Roma.pdf.

Vaccination coverage among Roma children is also lower. According to UNICEF and the Statistical Office of the Republic of Serbia, in 2019, only about one-third of Roma children (approximately 35%) received all mandatory vaccines on time, compared to 69% of children in the general population.[137] Disparities in mandatory immunization coverage are also highlighted in the Strategy for Social Inclusion of Roma in the Republic of Serbia for the period 2016–2025, adopted by the Government of the Republic of Serbia. The Strategy notes that vaccination coverage among Roma children is comparable to that of children in the general population only in the case of BCG vaccination before the age of one, whereas coverage with other vaccines decreases at later ages.[138]

The necessity of amending these provisions has also been emphasized in the Concluding Observations of the Committee on Economic, Social and Cultural Rights, which, in April 2022, expressed concern regarding the conditioning of parental allowance on certain criteria, such as school attendance and child vaccination, having a significant discriminatory effect on Roma families.[139] The Committee recommended that Serbia revise the conditions for parental allowance to eliminate those that are discriminatory or have a discriminatory effect, and that are contrary to human rights standards.[140]

Nevertheless, the Constitutional Court held that there were no grounds to initiate proceedings and rejected the initiative. In its ruling, the Court failed to assess the proportionality of the restriction introduced by the LFSFC (i.e., the denial of parental allowance), and did not consider whether the same goal could be achieved through measures that would constitute a lesser infringement on individual rights. The disproportionality is evident from the fact that the sanction (revocation of parental allowance) affects all children, not only the child in respect of whom the parent failed to fulfil immunization

137 MICS 2019, *op. cit.*, xv.
138 Strategy for Social Inclusion of Roma in the Republic of Serbia for the period 2016–2025, 2016, p. 50.
139 Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Third Periodic Report of Serbia*, op. cit, p. 54.
140 *Ibid.*

or education obligations. The absence of proportionality is further underscored by the fact that sanctions for irregular attendance in mandatory preschool and primary education are already prescribed under relevant legislation. By ignoring the fact that the LFSFC introduces additional sanctions for conduct already punishable as a misdemeanor, the Constitutional Court significantly limited both the scope and importance of the unity of the legal order, which has been affirmed in numerous previous rulings.

The Court also declined to consider whether the denial of parental allowance was in accordance with the best interests of the child principle enshrined in the Convention on the Rights of the Child, stating that "the holder of this right is the parent. Accordingly, the right to parental allowance cannot be directly linked, under constitutional law, to the provisions of the Convention on the Rights of the Child." This refusal by the Constitutional Court to recognize that the conditions for parental allowance may be considered activities concerning the child constitutes formalism seemingly intended to avoid assessing the compliance of the contested provisions with the best interests of the child principle under the Convention. Moreover, it contradicts the Court's own prior jurisprudence and decisions concerning the Law on Financial Support to Families with Children, in which it has clearly stated that the ultimate beneficiary of parental allowance is the child.

Particularly concerning is the Court's failure to consider, in light of relevant statistical data and research by international and national institutions, the effects of the conditions for parental allowance on Roma children.

Two judges disagreed with the ruling and expressed their dissenting opinions. One dissenting opinion stated that the fundamental reason for disagreement with the Constitutional Court's decision "lies in the absence of any consideration of indirect discrimination, namely the failure to address the claims that Roma children would be disproportionately affected by the conditions for exercising the right to paren-

tal allowance, compared to children from the majority population."[141] The initiative for the review of the constitutionality of Article 25 of the LFSFC, submitted by the A 11 Initiative, was focused precisely on the effects of the contested provisions on Roma children, a question that remained unanswered.

The Constitutional Court did not examine the international legal framework on discrimination, nor did it take into account recommendations from international bodies that directly pertain to the contested provisions of the LFSFC. As highlighted in one of the dissenting opinions, the United Nations Committee on Economic, Social and Cultural Rights expressed concern over the conditioning of parental allowance on certain criteria, such as school attendance and child vaccination, which have a significant discriminatory effect on Roma families. The Committee recommended that Serbia revise the conditions for parental allowance with the aim of removing those that are discriminatory or have a discriminatory effect and are inconsistent with human rights standards.

The Constitutional Court disregarded these recommendations. Nearly four years have passed since the Committee on Economic, Social and Cultural Rights issued a recommendation to the State to revise the conditions for parental allowance, with the aim of eliminating requirements that are discriminatory or have a discriminatory effect on Roma children. No action has been taken to amend these conditions, despite the fact that the LFSFC, which contains such provisions, has been amended almost every year since its adoption in 2017.

The LFSFC was amended again in 2024; however, even then, the competent ministry refused to modify the conditions for parental allowance that—according to the conclusion of the UN Committee on Economic, Social and Cultural Rights—are contrary to human rights standards due to their discriminatory effect on Roma families.

141 Separate opinion of Judge Dr. Tijana Šurlan regarding the Decision of the Constitutional Court in case IUz-229/2018 dated 21 April 2022.

In 2024, responsibility for this area was transferred from the Ministry of Social Affairs to the newly established Ministry for Financial Support to Families with Children. Nevertheless, the newly established ministry, now tasked with oversight of this domain, also showed no responsiveness to repeated calls for the removal of conditions from the LFSFC that indirectly discriminate against the most vulnerable Roma children. These include requirements related to regular school attendance or participation in the preparatory preschool program, timely immunization, and limitations on the number of children in a family eligible for parental or child allowance.

During the most recent public consultation on the Draft Law on Amendments to the LFSFC, held from 15 July to 5 August 2024, the A 11 Initiative submitted comments on the Draft emphasizing, among other points, the need to amend Article 25 of the Law. This article conditions parental allowance on regular attendance in primary school or the preparatory preschool program, and timely immunization. The proposal was rejected on the grounds that Article 25 had already undergone constitutional review by the Constitutional Court, which, in Decision No. IUz-229/2018 of 21 April 2022, dismissed the initiative for the assessment of constitutionality and compliance with ratified international treaties. However, this approach ignores the fact that the UN Committee on Economic, Social and Cultural Rights explicitly identified the discriminatory effect of this very provision of the LFSFC.

The Constitution provides that provisions on human rights must be interpreted in accordance with valid international human and minority rights standards and with the practices of international bodies monitoring their implementation. The Committee on Economic, Social and Cultural Rights recommended that Serbia revise the conditions for parental allowance to eliminate those that are discriminatory or have a discriminatory effect and that are inconsistent with human rights standards. Nevertheless, after the Constitutional Court ignored both the Committee's recommendations and the constitutional obligation to interpret human rights provisions in line with international standards and the practice of supervisory international bodies, this

constitutional obligation and the Committee's recommendations were also disregarded by other competent institutions.

Parental allowance—intended as a form of support granted on the basis of the birth of a child—continues to be denied through the imposition of conditions that are unrelated to childbirth or the newborn, such as school attendance (by older children in the same household). Statistical data clearly indicate who is being denied parental allowance in this manner, thereby violating both constitutional and international obligations.

Alongside financial social assistance, child allowance is the most important program capable of directly contributing to poverty reduction. Caring for children is also crucial in terms of preventing poverty later in life.[142] Further limiting eligibility for this right through all the aforementioned legal obstacles undermines already insufficient efforts aimed at reducing child poverty. The ineffectiveness of anti-poverty measures is evidenced by the fact that over 50% of children living in poverty reside in households receiving no form of social transfer[143], while the trend of declining child allowance beneficiaries relative to the number of live births in Serbia continues.[144] The European Commission, in its 2024 Report on Serbia, also highlighted that a large number of children living in poverty are not covered by any form of assistance.[145] As early as the end of 2022, the Fiscal Council noted that a clear priority in reducing child poverty should be to improve both the amount and coverage of child allowance. It emphasized that a 25% increase in the amount of this benefit, along with expanded

142 Fiscal Council, Proposal of Social and Tax Policy Measures for Reducing Inequality and the Risk of Poverty in the Republic of Serbia, Belgrade, 29 September 2022, available at: https://www.fiskalnisavet.rs/doc/analize-stavovi-predlozi/2022/FS_Predlog%20mera%20socijalne%20i%20poreske%20politike.pdf, pp. 13-14.

143 Republic Institute for Social Protection, *Children in the Social Protection System in 2022*, available at: https://www.zavodsz.gov.rs/media/2587/deca-u-ssz-2022-final-2672023.pdf.

144 Over the past decade, both the number of child allowance beneficiaries and the relative amount of this benefit compared to the average wage have declined. Fiscal Council, *Proposal of Social and Tax Policy Measures for Reducing Inequality and the Risk of Poverty in the Republic of Serbia*, op. cit., p. 10.

145 *Ibid.* European Commission, Serbia Report 2024, available at: https://enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf, p. 14.

coverage of the most vulnerable beneficiaries, would make it possible to reduce poverty to below-average levels.[146]

Inability to Exercise the Right to Parental and Child Allowance for the Fifth and Subsequent Children

Among the unresolved issues in the LFSFC is the restriction on the number of children in a family who can qualify for parental and child allowance. Article 22(1) and (3), and Article 26(1) of the LFSFC, which set out the conditions for accessing the parental and child allowance, establish a limit on the number of children for whom these rights may be exercised. Article 22 of the Law prescribes that the parental allowance is granted to the mother for the first, second, third, and fourth child, provided she is a citizen of the Republic of Serbia and has permanent residence.[147] Child allowance, another form of financial benefit provided under the LFSFC, is granted for the first, second, third, and fourth child in order of birth in the family, and only exceptionally for a child of higher birth order, if due to the age limit, the right can no longer be exercised for one of the first four children in order of birth.[148]

146 Fiscal Council, *Proposal of Social and Tax Policy Measures for Reducing Inequality and the Risk of Poverty in the Republic of Serbia*, op. cit., p. 2.

147 Exceptionally, a mother with three children who gives birth to twins or multiple children in a subsequent delivery may be granted the right to parental allowance for each child born during that delivery, based on a special decision by the ministry responsible for social affairs. On the other hand, the child allowance is granted for the first, second, third, and fourth child in the birth order within the family, and only exceptionally for a child of higher birth order, if the right can no longer be exercised for any of the first four children due to reaching the age limit. See Article 22, paragraph 3 of the Law on Financial Support to Families with Children. For more details, see: The A 11 – Initiative for Economic and Social Rights, Comments on the Draft Law Amending the Law on Financial Support to Families with Children, April 2021, available at: https://www.a11initiative.org/wp-content/uploads/2021/04/Komentar-ZFPPD_Inicijativa-A-11.pdf, as well as A 11 Initiative, "The Line Ministry Once Again Fails to Consider the Poorest in the Amendment to the Law on Financial Support to Families with Children," 5 August 2024, available at: https://www.a11initiative.org/resorno-ministarstvo-ponovo-propusta-da-tokom-izmena-zakona-o-finansijskoj-podrsci-porodici-s-decom-uzme-u-obzir-najsiromasnije/.

148 Article 26 of the Law on Financial Support to Families with Children.

This **limitation on the number of children eligible for parental and child allowance disproportionately affects the most vulnerable families with children.**[149] According to the Statistical Office of the Republic of Serbia, based on the most recent census from 2022, there are only 5,516 families in Serbia with more than five children. A special data analysis from the previous census, when a similar number of families with five or more children was recorded (5,264 in 2011 compared to 5,516 in 2022), showed that two-thirds of these families consist of parents where one or both declared themselves as being of Roma ethnicity. The data on literacy, housing conditions, and employment status indicate that these are families facing particularly severe economic and social hardship.

Considering that the number of families with five or more children is not large, lifting this restriction would not require significant budgetary expenditure.[150] Above all, it would eliminate a seemingly neutral provision that disproportionately affects the most vulnerable families, thereby resulting in indirect discrimination under Article 7 of the Law on the Prohibition of Discrimination in relation to the Law on Financial Support to Families with Children.[151]

Ironically, the proposal to lift the restriction on the number of children eligible for parental and child allowance was rejected with reference to alleged positions of the World Health Organization (WHO). However, these positions were neither presented nor substantiated in a manner that would allow for their verification—the Ministry did not specify where these positions were published, nor did it provide any document, data, title, or reference. It is therefore legitimate to question

149 For more details, see: Imogen Richmond-Bishop and Danilo Ćurčić, *"Welfare Caps: How the UK and Serbia Became Outliers in Child Support,"* Open Global Rights, 21 April 2021, available at: https://www.openglobalrights.org/welfare-caps-how-the-uk-and-serbia-became-outliers-in-restricting-child-support/?lang=English.
150 *Ibid.*
151 *Ibid.*

whether such a WHO recommendation exists at all, as well as what its content and context may be.[152]

By rejecting the proposal to amend Article 25 and the conditions related to immunization and schooling, the explicit recommendation of the Committee on Economic, Social and Cultural Rights from its Concluding Observations on Serbia, issued in April 2022, which specifically refers to that provision of the law, was disregarded. Furthermore, the proposal to amend Articles 22 and 26 of the LFSFC, with the aim of increasing the number of children eligible for financial support, was rejected on the grounds of an alleged recommendation of the World Health Organization (WHO). However, the Ministry failed to provide any further information—such as a date, reference number, title, recipient, or any other details—that would allow for verification of the content and relevance of such a recommendation, or assessment of whether, in the context of Serbia and the available data on families with five or more children, it is justified and in line with the principles of the best interests of the child and non-discrimination to maintain the restriction on the number of children eligible for parental and child allowance.

On the other hand, when it comes to the conditions under Article 25 of the LFSFC regarding immunization and schooling, it is indisputable that the UN Committee on Economic, Social and Cultural Rights issued explicit recommendations to Serbia that specifically refer to Article 25. It is also undisputed that domestic institutions continue to disregard this recommendation, thereby denying equal access to support to the very children who are at the greatest risk of remaining trapped in poverty and social exclusion.

152 The *Report on the Conducted Public Debate on the Draft Law on Amendments to the Law on Financial Social Assistance to Families with Children*, dated 8 August 2024, states that the proposal to extend the right to parental and child allowance to children beyond the fourth child "cannot be accepted on the grounds that the number of children eligible for parental and child allowance is determined by law and aligned with the positions of the World Health Organization concerning the well-being of mothers and children." However, nowhere are these positions specifically identified, making it impossible to properly assess whether the restriction on the number of children eligible for parental and child allowance is objective and reasonable—particularly given that this limitation predominantly has a negative impact on Roma families.

Such consequences could have been avoided if the line ministry had not disregarded yet another legal obligation, as prescribed by the Law on the Prohibition of Discrimination—namely, the obligation to assess the impact of regulations and policies on socioeconomically vulnerable individuals and groups.

In a letter submitted concurrently with its comments on the Draft Law Amending the LFSFC, the A 11 Initiative reminded the line ministry of its obligation to conduct such an impact assessment, as well as of the recommendation issued by the Commissioner for the Protection of Equality to all ministries concerning the implementation of this obligation. Nevertheless, the line ministry ignored both the proposals of the A 11 Initiative and the recommendation of the Commissioner, as well as the obligation laid down in Article 14, paragraph 4 of the Law on the Prohibition of Discrimination, which clearly stipulates that, when adopting new regulations or policies, their compliance with the principle of equality must be assessed.

Social Card Law

Since March 2022, the Social Card Law has been in force in Serbia,[153] adopted with the aim of automating procedures and processes in the field of social protection.[154] Despite its stated objective—to contribute to more efficient access to social protection rights and services and to a fairer distribution of financial social assistance—the social card system is gradually erecting a barrier that excludes many marginalized citizens from exercising their right to financial social assistance, child protection benefits, and other means-tested entitlements.[155] The initial implementation of this law led to a reduction in the number of financial social assistance beneficiaries by at least 27,000 individuals. By the end of 2023, the number of people who had

153 "Official Gazette of the RS", No. 14/2021 of 17 February 2021, entered into force on 25 February 2021 and has been applied since 1 March 2022.
154 Article 4 of the Social Card Law.
155 See also: Virginia Eubanks, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*, Sr. Martins Press, New York, 2018, 32.

lost their beneficiary status had exceeded 40,000, and by the end of 2024, nearly 60,000 individuals had been excluded from the social protection system.[156]

As stipulated in Article 2 of the Law, the "Social Card" system establishes a unified registry containing data on individuals and persons connected to them regarding their socio-economic status, the type of social protection rights and services they are currently using or have previously used, as well as data on the officials who have managed or made decisions concerning their individual rights. The "Social Card" registry serves as a central database of individuals who are currently exercising or have previously exercised rights under the social, veteran-disability, and child protection systems. It aggregates information from various official sources, including the Tax Administration, civil registries, the National Employment Service, the Central Population Register, the Ministry of Interior, the Republic Fund for Pension and Disability Insurance, and the Republic Geodetic Authority.

With regard to social protection rights, the system collects data that determine eligibility for financial social assistance, one-off cash assistance, and caregiver allowance. The register collects more than 135 data points about (potential) recipients without categorizing them based on the particular entitlement. Thus, for example, data about the national affiliation of the beneficiary of financial social assistance or the place of marriage registration are collected, even though such data are irrelevant to eligibility. Most importantly, there is no other context in Serbia with such an extensive collection of personal data.[157]

156 The data were collected by the A 11 Initiative based on requests for access to information of public importance. The total number of financial social assistance beneficiaries in the Republic of Serbia as of 1 February 2022 (prior to the implementation of the Social Card Law) was 211,266 persons. This number declined to 182,773 as of 1 January 2023, and further to 167,160 by 31 December 2023. Responses from the Ministry of Labor, Employment, Veteran and Social Affairs: No. 07-00-51/2023-05 of 6 February 2023; No. 07-00-395/2022-05 of 29 September 2022; No. 000580230-2024-13400-009-001-041-00 of 19 February 2024; and No. 000273947 2025 13400 009 001 041 001 of 13 February 2025.

157 Partners for Democratic Change Serbia, *Privacy and Personal Data Protection in Serbia: An Analysis of Selected Sectoral Regulations and Their Implementation*, p. 58.

The Law is not fully aligned with the provisions of the main legislative act regulating the processing of personal data—the Law on Personal Data Protection[158] —and it simultaneously contains provisions that contradict the Law on Social Protection. These inconsistencies between the Social Card Law and the legal frameworks governing personal data protection and social protection also raise concerns about the violation of the constitutional principle of the unity of the legal order. This principle requires that the fundamental principles and legal institutes established by laws that systemically regulate a specific area of social relations must be respected in special laws as well, unless such special laws explicitly provide for the possibility of regulating these matters differently.[159]

The proclaimed proactiveness of the Social Card system is largely limited to tracking changes that could lead to the reduction or termination of rights to social benefits. At the same time, there are no adequate safeguards in place to prevent human rights violations, including the right to privacy, due process, human dignity, and non-discrimination. When the system detects changes suggesting that a beneficiary no longer meets the eligibility criteria for certain social benefits, it does not allow the individual to adequately participate in the procedure or present arguments and evidence before their right is revoked. In doing so, the Social Card register, by denying social benefits, infringes upon the right to a fair trial and the principle of the right to be heard, which is fundamentally contrary to the proclaimed goal of ensuring a fairer distribution of social benefits.

In its assessment of the effectiveness of the Social Card Information System, the State Audit Institution (SAI) identified a series of issues, including incomplete implementation, unfinished integration with the SOZIS system, information security deficiencies, and the absence of a business continuity plan in the event of unforeseen circumstanc-

158 "Official Gazette of the RS", No. 87/2018. For details on the inconsistencies between the Social Card Law and the obligations prescribed by the Law on Personal Data Protection, see also: Commissioner for Information of Public Importance and Personal Data Protection, *Opinion on the Draft Social Card Law*, No. 073-12-2598/2020-02 of 15 December 2020.
159 Constitutional Court, Už 13652/2018, IUz-361/2012.

es.[160] The SAI concluded that the Ministry does not manage information technologies adequately, due, among other factors, to insufficient staffing capacities and the use of a large number of separate information systems.[161] Furthermore, the Ministry has not established comprehensive measures to ensure business continuity in emergency situations such as system failures.[162] One of the key concerns identified in the SAI report regarding the Social Card system is the reliability of the information system, particularly with respect to the handling of users' personal data.[163]

When it comes to social protection programs, digitalization and the rights to privacy, data security, and data integrity must be a priority from the outset. Appropriate measures must be undertaken to ensure that the infrastructure supporting social protection programs is secure, thereby preventing unauthorized access and misuse by third parties.[164] States must assess and take into account the specific circumstances and needs of communities and individuals applying for social benefits, particularly those who are already in a disadvantaged position due to their economic, social, or other status.[165] Their right to privacy and data protection must be respected in the implementation of both new and existing social protection programs, to ensure that those most in need of assistance are not forced to sacrifice their right to privacy in order to access their social rights.[166] The seriousness of the risk of violating the right to privacy of social

160 State Audit Institution, *Performance Audit Report – Effectiveness of the Social Card Information System at the Ministry of Labor, Employment, Veteran and Social Affairs*, Belgrade, 20 August 2024, p. 1, available at: https://www.dri.rs/izvestaj/13417.
161 *Ibid.*
162 *Ibid.* The report further notes that the Ministry has not established or implemented a business continuity plan or an IT disaster recovery plan. In addition, the Ministry has not ensured the functioning of the Social Card information system in the event of the termination of cooperation with the system maintenance service provider. A lack of professional staff, dependence on the service provider, and an emphasis on formally fulfilling the obligation to adopt an Information Security Act—without the capacity for its implementation—are identified as the main reasons for the absence of rules and procedures that would ensure business continuity in the event of emergencies, system failures, or termination of cooperation with the service provider.
163 *Ibid.*, 12.
164 For more information on the risks and key issues related to data collection and security in the area of social protection, see also: https://privacyinternational.org/learn/social-protection-programmes.
165 *Ibid.*
166 *Ibid.*

protection beneficiaries—an issue highlighted by the A 11 Initiative since the initial announcement of the Social Card Law—is further confirmed by the report of the State Audit Institution. Of particular concern is the fact that the Ministry has not established or regulated its relationship with the service provider responsible for the maintenance of the Social Card information system, particularly in the part relating to the definition of the level of accessibility and the type of information that service providers may access, the manner of access, and the mechanisms for monitoring such access.[167] As a result, the service provider has the potential to access the Social Card information system and all associated databases, and to view personal (sensitive) data and information on the exercise of rights within the social protection system without authorization.[168]

Regarding the functioning of the Social Card system, the Social Card Law provides for multiple functions of the register, the two main ones being: 1) determining the socio-economic status of an individual and related persons, for the purpose of establishing facts necessary for deciding on social protection rights and services; and 2) automating procedures and processes related to social protection.[169]

Article 17 of the Social Card Law stipulates that, if a discrepancy in data regarding the beneficiary or related persons is identified during processing, a notification shall be generated and forwarded to the relevant social protection records. The discrepancy refers to inconsistencies between data from original records (maintained by the Ministry of Interior, the Tax Administration, the Republic Geodetic Authority, and the National Employment Service) and the data held by the center for social work. This notification also includes an instruction to the data user, i.e. the authority responsible for social protection—either the center for social work, or other competent authorities engaged in activities aimed at enhancing social protection —that it is necessary to verify the data by reviewing and retrieving information

167 State Audit Institution, *Performance Audit Report – Effectiveness of the Social Card Information System at the Ministry of Labor, Employment, Veteran and Social Affairs*, op. cit., p. 61.
168 *Ibid.*
169 See Article 4 of the Social Card Law.

from official records, documentation, and public documents. Alternatively, it may be necessary to issue a decision upon a party's request or to initiate *ex officio* proceedings due to newly identified facts that may affect the acquisition, modification, or termination of rights arising from the social protection system.

Data from the Social Card Register are updated once or twice a month based on the original records.[170] The Social Card system informs authorized personnel of any changes that may affect the exercise of rights or the provision of social protection services. Notifications issued by the Social Card system are sorted into several categories, and each notification includes not only information but also an instruction for further action.

If data processing for a financial social assistance beneficiary indicates a disqualifying factor, the short internal deadlines for action—set by notifications from the Social Card—often lead to decisions to terminate the right without prior hearing from the beneficiary. This not only denies social protection rights but also violates the beneficiary's right to be heard on relevant matters. Some social workers defer action on the notification by adding a written note, but it may occur that the same notification reappears after a certain period, requiring repeated action.[171]

Among the most frequent issues recorded following the entry into force of the Social Card Law, which have hindered the realization of the right to financial social assistance, the following stand out:

170 Information obtained by the A 11 Initiative team based on conversations with personnel of the centers for social work and by reviewing data in the Social Card register with the authorization of individuals who sought legal assistance due to difficulties in exercising the right to financial social assistance caused by the implementation of the Social Card Law.
171 Information was collected during a focus group organized by the A 11 Initiative with personnel of the centers for social work in September 2024.

- In the Tax Administration records, social housing units in which certain beneficiaries live as tenants were mistakenly registered as their property.[172]
- Certain beneficiaries were listed as owning vehicles that had long been scrapped, destroyed, or unregistered for several years.[173]
- Incorrect income data were recorded for some beneficiaries—either income that neither they nor members of their household had earned, or unrealistically high income. For example, one beneficiary lost the right to financial social assistance because the social card system indicated that he had earned as much as RSD 345,420.48[174] over a three-month period from selling secondary raw materials. In another case, a beneficiary's right to assistance was terminated because the social card system recorded income from selling cardboard in an amount that would imply he had collected and sold nearly 22 tons of cardboard in a single month.[175]
- Due to identity card misuse, certain beneficiaries were falsely

172 It is assumed that this situation arose from the obligation to pay property tax and rent for social housing, leading to the social housing being recorded as property owned by the beneficiaries. This series of inadequate solutions (imposing taxes on social housing users, and then incorrectly recording those apartments as their property) has resulted in a series of rights violations and further deterioration of the position of these particularly vulnerable citizens.

173 This also occurs, for example, when a vehicle or its parts are sold but the change of ownership is not registered, or when a vehicle is sold to a scrapyard and no certificate of delivery is issued, or when the vehicle is not deregistered and the license plates are not returned to the Ministry of Interior.

174 Decision of the Center for Social Work K. dated May 25, 2022 (a copy of the decision is in the possession of the author). For illustration, based on the average purchase price of secondary raw materials at the time the decision was issued, an income of approximately RSD 345,000 would imply that the individual collected about 11,500 kilograms of scrap iron over a three-month period.

175 This refers to case of D. B., who approached the A 11 Initiative in December 2023. D. B. occasionally collected secondary raw materials (paper and cardboard), but in the three months preceding his application for financial social assistance, he did not sell any such materials. Even in earlier periods when he did sell paper, his earnings never exceeded RSD 2,000 per month. However, at the end of November 2023, his financial social assistance was terminated because the social card system indicated income not only far exceeding his actual earnings, but also physically impossible to achieve. For example, for September 2023, it was determined that the applicant had earned an income of 61,240 dinars, which, according to the purchase price of cardboard in that period, would mean that he collected and sold 21.4 tons of cardboard and paper in one month, or 713 kilograms per day (the decision and official price list of secondary raw materials for the given period are on file with the author). D. B. gave up the appeal he initially planned to submit after the competent center for social work informed him that he would be granted one-time financial assistance if he refrained from filing the appeal. Faced with the choice between an uncertain outcome of the appeal and the possibility of receiving the one-time financial assistance he desperately needed to secure a minimum level of subsistence, he opted for the latter.

registered as employed and subsequently lost a range of social and health protection entitlements. The social card system does not recognize such employment as fictitious and does not distinguish between actual and fictitious employment.[176]

- The social card system also registers income from seasonal work, despite relevant regulations explicitly stating that compensation earned from seasonal work does not affect the right to financial social assistance.
- Although the Law on Social Protection stipulates that individuals or families may be entitled to financial social assistance even if they own land of up to half a hectare,[177] (in cases of inheritance of less than half a hectare), the Tax Administration in certain instances registered the inherited land as income. This was then reflected in the social card system as income, leading to the termination of financial social assistance.
- In some cases, when secondary raw materials were sold by a group of individuals or residents of the same settlement, the payment was made to one individual whose identity card was provided—often because some persons lacked personal documents, which remains a widespread issue among members of the Roma community. Although the income was later distributed among all participants, the social card system recorded the entire amount as income of the person who provided their ID and through whom the payment was made.
- Another example of incorrect and unlawful income calculation is the classification of donations as income affecting eligibility for financial social assistance. For instance, a donation intended to cover utility arrears was treated as earned income and led to the termination of financial social assistance. The same beneficiary

176 For more information, see the case study "Fictitious Employment of Roma in Belgrade" in the section "Right to Work". See also: The A 11 Initiative, *Report on Monitoring the Implementation of the Law on Free Legal Aid in 2022*, 2022, p. 4.

177 An individual or family may exercise the right to financial social assistance if they do not own any other real estate, except for a housing unit that meets the needs of the individual or family, and land with a total area of up to 0.5 hectares. See the general conditions for exercising the right to financial social assistance in Article 82 of the Law on Social Protection.

was also recorded as having income from occasional or temporary work—resulting in loss of assistance—after receiving a donation intended to cover the costs of her daughter's funeral.[178]

- The trend of terminating social benefits due to errors resulting from incorrect attribution or calculation of income recorded in the Social Card registry continued in 2024. One of the frequently occurring issues is the unjustified inclusion of the value of vehicles that no longer exist as movable property of social welfare beneficiaries, which results in the loss of benefits. Petar's family experienced such a problem.

Petar lives in Belgrade with his three-member household consisting of his wife, who is completely unable to work, immobile, and officially recognized as 100% disabled, and his daughter from a previous relationship, who is a primary school student and has been entrusted to him for sole custody.[179] *The child's mother has been ordered to pay symbolic child support in the amount of 300 dinars (less than 3 euros) per month. After 22 years of employment, Petar lost his job, and the family survived thanks to social benefits and free meals from a soup kitchen. However, in May 2024, they lost even that support because the Social Card registry indicated that Petar's wife owned three vehicles. In reality, two of those vehicles, whose registrations expired more than 10 years ago (in 2011 and 2013), had long since been scrapped. In the justification of the decision, it is clearly stated that Petar declared that these cars had been disposed of at a junkyard. The only vehicle the family actually owns is used by Petar to transport his immobile wife. Nevertheless, the decision was based solely on the data from the Social Card registry, which listed his wife as the owner of three vehicles. Since the market value of all three vehicles was assessed at nearly one*

178 Although in this case, the right to financial social assistance was restored after filing an appeal, it should not be overlooked that the family, which did not have money to bury a family member or pay bills, was left without financial social assistance during the appeal process due to errors in the Social Card register. For more information on this case, as well as other issues caused by the application of the Social Card Law, see, among others, the A 11 Initiative, (Anti)Social Cards, available at: https://antisocijalnekarte.org/.

179 Decision of the City Center for Social Work in Belgrade, No. 553-03-7847/2023, dated 16 May 2024.

million dinars, the family's entitlement to financial social assistance was revoked.[180]

Absurdly, the two scrapped vehicles, out of use for over a decade, are valued by the system at more than 600,000 dinars, while the beneficiary's statement and the fact that the vehicles have not been registered for over ten years are disregarded entirely. Furthermore, the justification of the decision clearly shows that the authorities did not even consider whether the only car the family actually owns is necessary to meet their basic needs, especially given that Petar's wife is completely incapable of work and immobile. Petar filed an appeal against the decision; however, given the scale of such errors and the consequences of unjustified termination of benefits, individual appeal procedures are not a viable mechanism for addressing the systemic flaws of the Social Card system. In all of the above situations, the result of the deficiencies in the Social Card system is a reduction or revocation of the right to financial social assistance. It is evident that the root cause lies in the discrepancy between actual facts and the data displayed in the Social Card registry. Since all of these discrepancies have a serious impact on the lives of already marginalized individuals, it is clear that such errors are entirely unacceptable and must be eliminated in order for the Social Card system to be implemented in practice.

In addition to all of the above, one of the key issues arising from the implementation of the Social Card Law is **the violation of the principle of data minimization**, as well as the exclusion of social welfare beneficiaries from participating in decision-making processes that are based on automated processing of personal data.

The Rulebook Amending the Rulebook on the Organization, Norms and Standards of Centers for Social Work[181] introduced the Social Protection Information System (SOZIS), a software solution used by centers for social work to perform tasks and maintain records within

180 *Ibid.*
181 „"Official Gazette of the RS," No. 83/2022 of 28 July 2022.

their jurisdiction.[182] The Rulebook prescribes the obligation for centers to keep records and documentation of their work in SOZIS. In practice, however, SOZIS has proven to complicate the work of social workers. According to social workers interviewed by the A 11 Initiative in 2023, SOZIS is more bureaucratically complex than the previous system, Integral. Similar challenges were reported in 2024, as well.[183] SOZIS, which was allegedly designed to assist staff at centers for social work and reduce the time required for data entry, appears to be doing the opposite.[184] Despite numerous upgrades, SOZIS still does not function properly.[185] For two years now, according to the chief representative of the "Nezavisnost" Union at the City Center for Social Work in Belgrade, SOZIS has only slowed down operations and continues to malfunction, despite "having been paid for in the millions of dinars".[186] The total value of the public procurement contract amounts to 193.5 million dinars excluding VAT.[187]

The public procurement contract for the system for protection and automation of social protection system was concluded in March 2020 with a consortium consisting of ASSECO SEE d.o.o. and ITEN ENGINEERING d.o.o. Novi Sad. The contract value was 692,820,000 dinars, with monthly maintenance funded in the amount of 12,975,085.70

182 See Article 2, point 15 of the Rulebook on the Organization, Work Norms, and Standards of Centers for Social Work.

183 Concerns regarding SOZIS and the overly bureaucratized Social Card system were raised, for example, at the meeting on the Initiative for Improving the Situation in Social Protection held on 17 April 2024, which was attended by over 250 social workers and other employees from centers for social work and social protection institutions. At a focus group with social workers organized by the A 11 Initiative in September 2024, some participants stated that the Social Card made their work easier because they no longer had to collect documentation. In general, with regard to digitalization in the field of social protection, the report "Research Findings and Key Aspects for the Development of the Social Protection Strategy" indicates that digitalization, instead of improving efficiency, often creates additional burdens. This is not only due to the lack of adequate staff training for the transition to digital systems, but also to insufficient and inadequate infrastructure. Moreover, complex administrative procedures have not been simplified but have merely been transferred into digital form, retaining their complexity. Sociativa, *Research Findings and Key Aspects for the Development of the Social Protection Strategy*, op. cit., p. 10.

184 Nova Ekonomija, "City Center for Social Work Employees Stop Work: Staff Shortages and Multi-Million Software That Impedes Work," 27 February 2025, available at: https://novaekonomija.rs/vesti-iz-zemlje/radnici-gradskog-centra-za-socijalni-rad-obustavili-rad-manjak-zaposlenih-i-milionski-softver-koji-otezava-rad.

185 *Ibid.*

186 Nova ekonomija.

187 *Ibid.*

dinars.[188] Affairs invested at least 1.41 billion dinars (specifically, 1,417,368,323 dinars excluding VAT, or approximately 12.09 million euros) in software that does not function properly.[189] Since the introduction of this system, the work of staff at centers for social work has been hindered and undermined, and the system itself is not aligned with the laws and the Constitution of the Republic of Serbia.[190]

According to a report by the State Audit Institution, from 2022 until the publication of the SAI report in August 2024, a total of 800,000,000 dinars was invested in the IS SOZIS.[191] In addition, 656,679,550 dinars was spent on the procurement, modification, and upgrading of the Social Card Information System.[192]

Since April 2022, the A 11 Initiative has been attempting, through requests for access to information of public importance, to obtain from the Ministry of Labor, Employment, Veteran and Social Affairs information on the algorithm used for data processing tasks as established by the Social Card Law, as well as the source code of the software application that operates the Social Card system. However, nearly three years later, this information is still not publicly available. The request was initially denied on the grounds that, inter alia, the source code of the Social Card register, which is an ICT system of special importance, is protected under the provisions of the Law on Information Security, and constitutes property and a business secret of the Ministry.[193] Following an appeal against this decision, the Commissioner for Access to Information of Public Importance and Personal Data Protection upheld the appeal of the A 11 Initiative and returned the case for reconsideration to the competent ministry, which once again issued the same decision and denied access to the

188 See the Initiative for Social Protection, available at: https://sites.google.com/view/inicijativa-zasocijalnuzastitu/tekst-inicijative.
189 Nova ekonomija, "*Ministry of Labor Spent 1.4 Billion on Software That Does Not Function Properly*," 1 March 2025, available at: https://novaekonomija.rs/price-i-analize/ministarstvo-za-rad-dalo-14-milijarde-dinara-na-softver-koji-ne-funkcionise.
190 https://sites.google.com/view/inicijativazasocijalnuzastitu/tekst-inicijative.
191 State Audit Institution, *Audit Report on the Social Card Information System*, op. cit., p. 40.
192 State Audit Institution, *Audit Report on the Social Card Information System*, op. cit., p. 17.
193 Decision of the Ministry of Labor, Employment, Veteran and Social Affairs no. 07-00-276/2022-05 dated 4 July 2022.

requested information, with a similar explanation. A new appeal was subsequently filed by the A 11 Initiative, which was upheld, and the Ministry's decision was again annulled and returned for a new procedure. In its latest decision, the Commissioner instructed the Ministry that—if it continues to withhold the source code—it must provide justification as to why this is necessary in a democratic society. The A 11 Initiative has been awaiting the third decision on its appeal for almost a year. The appeal was filed in April 2024, and since no decision was issued even after a formal request for expedited processing in January 2025, an administrative dispute was initiated in March 2025 due to administrative silence.

In the realm of procedure automation, it is crucial to establish two primary requirements for the system responsible for making such decisions. The first pertains to the transparency of the algorithm used to automatically verify the (non-)compliance of data in the Social Card with the eligibility criteria for exercising social protection rights. The second concerns enabling the beneficiary of the social protection system to present their views regarding the circumstances surrounding the automated processing of their personal data. Neither of these two requirements is currently met in practice.

In April 2022, the A 11 Initiative also submitted a request to the Constitutional Court to initiate proceedings for the constitutionality review of the Social Card Law, citing its inconsistency with the Constitution, ratified international treaties, and the principle of unity of the legal order.[194] This initiative was supported by the member organizations of the Network for Economic, Social and Cultural Rights, which submitted an *amicus curiae* brief (a joint legal opinion) to the Constitutional Court.[195] The joint opinion is based on international human rights standards and examples of the impact of digitalization in contexts similar to the adoption of the Social Card Law. It emphasizes that the

194 For more information, see the A 11 Initiative, *Submission of the Initiative for the Constitutionality Review of the Social Card Law*, April 29, 2022, available at: https://www.a11initiative.org/podneta-inicijativa-za-ocenu-ustavnosti-zakona-o-socijalnoj-karti/.
195 For more information, see the A 11 Initiative, *Growing Support for the Initiative to Review the Constitutionality of the Social Card Law*, 29 November 2022, available at: https://www.a11initiative.org/raste-podrska-inicijativi-za-ocenu-ustavnosti-zakona-o-socijalnoj-karti/.

extensive processing of data concerning social protection beneficiaries and related individuals is contrary not only to the principles of personal data protection but also affects the right to social protection and the prohibition of discrimination—primarily due to its disproportionately negative impact on Roma in Serbia, given their representation within the social protection system.[196]

It is important to note that in other countries, in similar situations where new technologies are used with the proclaimed aim of improving the social protection system, courts have examined **the proportionality of such personal data processing**, and the respect for the right to private and family life in accordance with the European Convention on Human Rights.[197] Whether domestic courts and the Constitutional Court of Serbia will consider these arguments and assess the compatibility of the Social Card Law with the guarantees under Article 8 of the European Convention on Human Rights remains to be seen in the coming period.

The consequences of the implementation of the Social Card Law are also highlighted by Amnesty International in a report dedicated entirely to examining the law's impact and the introduction of (semi-) automated decision-making regarding eligibility for financial social assistance on a range of human rights.[198] Within a social protection system that is already inadequate, the Social Card has further impeded access to social benefits and deepened existing exclusion and

196 The joint legal opinion submitted to the Constitutional Court in the proceedings to review the constitutionality of the Social Card Law was prepared by Amnesty International, Centro de Estudios de Derecho, Justicia y Sociedad (Dejusticia), the Digital Welfare State and Human Rights Project (DWS Project) at the Center for Human Rights and Global Justice at NYU School of Law, the European Roma Rights Centre (ERRC), the Initiative for Social and Economic Rights (ISER), the Kenya Human Rights Commission (KHRC), and the Program on Human Rights and the Global Economy (PHRGE) at Northeastern University. The work on the joint legal opinion was coordinated by the Economic, Social, and Cultural Rights Network (ESCR-Net). The joint legal opinion is available at: https://www.a11initiative.org/wp-content/uploads/2022/Antisocial%20cards/Social%20Card%20Legal%20Opinion%20-%20Final%20Serbian%20Pub.pdf?_t=1669713145.

197 The Hague District Court, NJCM and others v. The Netherlands (2020), The Hague District Court ECLI: NL: RBDHA:2020:1878 (SyRI).

198 Amnesty International, "Serbia: Trapped by automation: Poverty and discrimination in Serbia`s welfare state", December 2023, available at: https://www.amnesty.org/en/documents/eur70/7443/2023/en/#:~:text=Since%20its%20introduction%2C%20the%20Social,with%20disabilities%2C%20were%20disproportionally%20affected.

inequalities, disproportionately affecting marginalized groups such as the Roma.

The 2024 report of the European Commission against Racism and Intolerance (ECRI) similarly raises concerns, noting that the Social Card Law and its implementation have given rise to serious issues due to their implications for the right to financial social assistance and their impact on the most vulnerable segments of the population, particularly the Roma.[199] While recognizing that algorithmic systems can create new opportunities across various areas of life, ECRI underscores that their design, development, and functioning must be accompanied by robust safeguards against discrimination, including indirect discrimination.[200] This requires not only reaffirming substantive equality and non-discrimination as fundamental principles, but also undertaking concrete measures to address potential biases in the preparation of data used to train algorithms; to ensure transparency in the functioning of algorithmic systems and the decision-making processes in order to promote awareness among relevant stakeholders and to establish effective remedies for challenging potentially arbitrary or discriminatory decisions; and to put in place strong oversight mechanisms.[201] ECRI recommends that the competent authorities conduct a thorough review of decision-making processes involving algorithmic systems in the field of social protection, in order to ensure that the Roma and other groups of concern to ECRI have equal opportunities to access social protection rights and are not subjected to discrimination.[202] This review process should involve equality protection institutions as well as civil society organizations.

199 ECRI, *ECRI Report on Serbia, sixth monitoring cycle, Adopted on 9 April 2024, Published on 27 June 2024*, available at: https://rm.coe.int/fourth-ecri-report-on-serbia/1680b06413, p. 28.
200 *Ibid.*, p. 29.
201 *Ibid.*
202 *Ibid.*

Unlawful Inclusion of Income from Seasonal Work in the Assessment of Eligibility for Financial Social Assistance, Despite Amendments to Unlawful Secondary Legislation

A persistent issue, particularly following the introduction of the Social Card Law in March 2022, has been the loss of entitlement to financial social assistance due to the unlawful inclusion of income from seasonal work in the calculation of household income during the eligibility assessment process.[203] This issue stems from inconsistencies between the Rulebook on Forms in the Process of Obtaining Financial Social Assistance[204] (hereinafter: the Rulebook) and the Law on Social Protection, the Regulation on Income and Earnings Relevant to the Exercise of the Right to Financial Social Assistance, as well as the Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities. The Rulebook erroneously includes income from seasonal work as income to be considered in determining household income during the decision-making process on financial social assistance,[205] contradicting the Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities[206], which explicitly states in Article 9, Paragraph 3 that "The remuneration for work earned in accordance with this law shall not affect the exercise or use of the right to financial social assistance established under social protection regulations." In contradiction to this legal provision, the application forms prescribed by the Rulebook for financial social assistance—integral components of the Rulebook—required the inclusion of income from seasonal

203 For more information, see also Uroš Ranđelović, "Even the Poor Work" The A 11 Initiative Blog, available at: https://www.a11initiative.org/i-siromasni-rade/.
204 "Official Gazette of the RS" no. 39/2011.
205 See the Application for Financial Social Assistance (Form NSP-Z) and Form NSP-NM - Form containing Findings and Opinion of the Center for Social Work, constituting an integral part of the Rulebook on Forms Required in the Process of Obtaining Financial Social Assistance (Official Gazette of the RS, No. 39/2011).
206 "Official Gazette of the RS", No. 50/2018.

work as part of the applicant's and household members' income to be taken into account during eligibility assessment. Furthermore, the prescribed content and findings of the opinion issued by the center for social work, the template of which is also an integral part of the Rulebook, similarly stipulate that income from seasonal work should be recorded. This is despite the fact that such income, according to the law governing seasonal work, should not influence entitlement to financial social assistance.

Paradoxically, the calculation of foregone earnings also takes into account income from seasonal work that the applicant or household members did not actually earn. Although higher-ranking legislation clearly provides that income from seasonal work does not affect eligibility for financial social assistance, under the Rulebook, not only was actual *income from such work considered*, but so too was the *income that, in the opinion of the center for social work, could have been earned*. Section 6 of the prescribed findings and opinion form from the center for social work includes income from seasonal work as relevant income for the exercise of the right, while Section 7 refers to the income that the applicant and their household members failed to earn from such work. In both cases—whether earned or merely potential—seasonal income was used as a factor in determining eligibility, resulting in reduced benefit amounts or a complete loss of entitlement, despite the fact that, in accordance with the Law on Seasonal Work, it should not have had any impact. This misalignment between the Rulebook and higher-ranking legal acts has led to reductions in or the complete loss of financial social assistance for vulnerable individuals.

The Rulebook was also inconsistent with the Law on Social Protection, which, in Article 89, Paragraph 3, stipulates that the types of income and earnings constituting the average monthly income of an individual or household, the method of determining their amount, and the income and earnings that are not to be considered when assessing entitlement to financial social assistance shall be prescribed by the Government. The Government fulfilled this obligation through the Regulation on Income and Earnings Relevant to the Exercise of

the Right to Financial Social Assistance, which does not designate income from seasonal work as relevant for assessing eligibility. According to the cited Article 89(3) of the Law on Social Protection, it is the Government that is explicitly authorized to define which types of income are to be considered relevant for the exercise of the right to financial social assistance. The minister responsible for social protection is only authorized to prescribe the form and content of the application forms for financial social assistance, without altering the eligibility criteria themselves. However, through the Rulebook, the competent minister overstepped this authority by designating income from seasonal work as relevant both in determining actual income and in calculating foregone earnings.

One of the few positive provisions of the Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities was the explicit stipulation that remuneration earned from seasonal work would neither affect eligibility for financial social assistance nor result in removal from the unemployment register. This provision aimed to safeguard individuals' rights to social protection and social insurance, while also encouraging those without access to other employment opportunities to engage in seasonal work. However, due to the aforementioned inconsistency of the Rulebook with higher-level legislation, this legal provision was rendered virtually ineffective in practice. As a result, in addition to facing a heightened risk of labor exploitation (due to oral contracts), beneficiaries also experienced the loss of rights in the field of social protection. Strangely enough, those who do not obtain any income, whether from seasonal employment or otherwise, might experience a decrease in their FSA equal to the potential earnings from seasonal work as determined by the CSR, even if such earnings were not obtained. This dual reduction in FSA by including both earned and hypothetical income from seasonal work—was unlawful, violated the principles of unity of legal order and social justice, and disproportionately affected individuals already facing marginalization, who were often simultaneously at risk of social exclusion and labor exploitation.

In cases brought to the A 11 Initiative by socially vulnerable individuals whose financial social assistance was reduced or terminated due to income from seasonal work, the centers for social work obtained data on such income from seasonal work based on the Social Card Law (the source of information on earned income from seasonal work was the register formed based on the Social Card Law). The previous decision granting FSA was replaced with a new one that terminated or reduced the FSA amount. For example, a family of six had their FSA amount reduced to 5,974 dinars based on the finding that the household had received 19,891 dinars in monthly income from seasonal work, although according to the Law on Work Engagement on Seasonal Jobs in Certain Activities, such income could not legally be taken into account when determining eligibility. Moreover, applicants were not given the opportunity to comment on the (incorrectly) established income figures prior to the issuance of the new decision.

As a result, one of the rare positive provisions of the Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities was not applied due to the inconsistency of the Rulebook with higher-ranking legal acts. With the implementation of the Social Card Law, the unlawful consideration of income from seasonal work in decision-making on financial social assistance became increasingly common. This led to a growing number of violations of rights—stemming from the collection and use of data on seasonal income that, under the law, should have had no impact on eligibility for financial social assistance.

Due to all of the above, in March 2023, the A 11 Initiative submitted an appeal to the Minister of Labor, Employment, Veteran and Social Affairs, requesting an amendment to the Rulebook on Forms in the Process of Obtaining Financial Social Assistance. It was pointed out that the Rulebook was not aligned with the Law on Social Protection, the Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities, and the Regulation on Income and Earnings Relevant to the Exercise of the Right to Financial Social Assistance. The Initiative underscored that, by applying this unlawful Rulebook, centers for so-

cial work were violating the rights of beneficiaries of financial social assistance, thereby undermining the principle of unity of legal order.

In May 2023, the Minister of Labor, Employment, Veteran and Social Affairs amended the Rulebook on Forms in the Process of Obtaining Financial Social Assistance.[207] The changes were reflected in the application forms for financial social assistance (FSA), constituting an integral part of the Rulebook. The previous wording, "income from seasonal and other jobs," was revised to: "income from seasonal and other jobs, excluding income from seasonal jobs performed in accordance with the law governing seasonal employment."[208]

This is undoubtedly a positive step that could help FSA beneficiaries achieve a more dignified standard of living through engagement in seasonal work. However, concerns remain that the new formulation—"income from seasonal and other jobs, excluding income earned in accordance with the law governing seasonal employment"—could lead to interpretative difficulties in practice. Furthermore, it remains unclear which "seasonal jobs" would not be covered by the law regulating seasonal employment. The A 11 Initiative addressed this issue in a letter to the competent Minister in June 2023; however, no response has been received to date.

Another concern is that some centers for social work continue to take income from seasonal work into account when assessing eligibility for financial social assistance. For instance, a three-member family from Vranje was denied financial assistance solely on the grounds of income earned from raspberry picking, despite the fact that such income should not affect FSA eligibility.[209] Similarly, in November 2024, a family from Obrenovac was denied FSA based on income earned

207 Rulebook on Amendments to the Rulebook on Forms Required in the Process of Obtaining Financial Social Assistance. The Rulebook was published in the Official Gazette of RS, No. 45/2023, dated 2 June 2023, and entered into force on 3 June 2023.
208 See Form NSP-Z and Form NSP-NM, constituting an integral part of the Rulebook. For more information, see the A 11 Initiative, "*Income from seasonal work no longer affects eligibility for financial social assistance*," 28 June 2023, available at: https://www.a11initiative.org/prihod-od-sezonskog-rada-vise-ne-utice-na-ostvarivanje-novcane-socijalne-pomoci/.
209 Decision of the Vranje center for social work, no. 553-01-25151/2023 dated 15 January 2024.

from seasonal work ("sorting peppers in a cold storage facility in Novi Sad").[210] In this way, centers for social work continue to unlawfully penalize individuals and families—denying them the right to financial social assistance—for seeking income in other cities that would enable them to live with dignity.

Moreover, the A 11 Initiative has encountered cases that border on the absurd, where individuals who earned income from seasonal work were imputed foregone income from additional seasonal jobs. In other words, for persons who *did in fact earn income* from seasonal work, their financial social assistance was reduced on the basis that *they had "missed" an opportunity to earn* even more through additional seasonal engagement.

* * *

Conclusion

In 2024, no changes were introduced that would contribute to improving the position of socially vulnerable individuals or to implementing the recommendations issued by international organizations and treaty bodies concerning issues such as the insufficient amount of financial social assistance or interruptions in its provision. On the contrary, a worrying trend of deterioration in the field of social protection remains evident. Positive developments have been sporadic, while obstacles to accessing social benefits have become increasingly numerous and far-reaching.

Although the process of preparing a new social protection strategy finally resumed in 2024, it has been marked by numerous shortcomings—from the inadequate involvement of stakeholders to irregularities in the invitation of members to the Working Group tasked with drafting the Strategy Proposal, as well as the exclusion of professional associations from the process.

210 Decision of the Belgrade city center for social work, Obrenovac branch, no. 553-01-12876/2024-01 dated 25 November 2024.

In practice, the unlawful inclusion of income from seasonal jobs in the calculation of income relevant for determining eligibility for financial social assistance persists, resulting in the unjustified reduction or termination of this support.

Although the Law on Financial Support to Families with Children (LFSFC) was once again amended in 2024—as it has been nearly every year since its adoption in 2017—the opportunity to revise discriminatory eligibility conditions for parental allowance was once again missed. This occurred despite the Committee on Economic, Social and Cultural Rights warning that these conditions have a discriminatory effect on Roma families and recommending that the state revise them. In the latest amendments to the LFSFC, the competent ministry disregarded not only the Committee's recommendations but also the legal obligation to conduct an impact assessment of regulations on socioeconomically vulnerable individuals and groups, as prescribed by the Law on the Prohibition of Discrimination.

The implementation of the Social Card Law has further deepened existing problems and impeded access to financial support. Cases documented by the A 11 Initiative demonstrate that this often results from errors such as incorrectly recorded income—whether income that beneficiaries did not receive at all, did not receive in the amount recorded, or income and assets that should not have affected their eligibility for financial social assistance. Mistakes in the Social Card register have led to the unjustified termination, reduction, or delay in access to much-needed financial support.

For years, concerns have been raised regarding the insufficient number of social workers in relation to the number of beneficiaries. The role of social workers in engaging with beneficiaries has been further diminished by the introduction of the Social Card system, which must not be viewed as a substitute for addressing the limited capacity of centers for social work. Such an approach merely heightens the risk

of generating and perpetuating social exclusion.[211] This risk is further exacerbated by the fact that, when financial social assistance is reduced or terminated, beneficiaries are not given the opportunity to explain the circumstances that led to such decisions.

Neither the Social Card system nor the broader social protection framework—including the eligibility criteria for financial assistance—are structured to foster the social inclusion of vulnerable individuals. Rather, their primary aim appears to be the reduction of financial social assistance payments or the exclusion of individuals from the social protection system altogether. At the same time, the level of financial social assistance remains well below the minimum subsistence threshold and the actual cost of living. The amount of "foregone income" imputed by centers for social work to individuals deemed capable of work is rising at a far greater rate than the assistance itself. Consequently, financial support is increasingly being reduced or discontinued. In 2024, the arbitrary practice of attributing foregone income worsened considerably, becoming an almost insurmountable barrier for work-capable individuals seeking access to FSA. In some instances, the amount of such arbitrarily assessed income exceeded 30,000 dinars.

The Social Card system has accelerated the process of terminating and restricting access to social benefits. From its implementation in 2022 through August 2024, over 656 million dinars have been invested in the system, the practical effect of which has been to deepen poverty and widen social inequality.[212] At the same time, 800 million dinars have been invested in the SOZIS information system, which, according to some social workers, has further complicated their work.[213] On the other hand, the nominal amount of financial social as-

211 Some authors point out that the devaluation of professions on which the functioning of schools, hospitals, social protection, and nursing homes depends, as well as the failure to engage qualified and talented personnel in these institutions, leads to the creation and reproduction of social exclusion. See Michael Walzer, "*Exclusion, Injustice and the Democratic State*", Dissent, Winter 1993. This risk is even greater if, for example, the role of social workers is taken over or diminished by an algorithm.
212 State Audit Institution, *Audit Report on the Social Card Information System*, op. cit., p. 17.
213 State Audit Institution, *Audit Report on the Social Card Information System*, op. cit., p. 40.

sistance has increased by only four euros since October 2023, which is nowhere near sufficient to keep up with rising living costs. These minimal increases in financial social assistance, which fail to match price and cost-of-living increases, clearly reflect the deep mismatch between the support that socially vulnerable individuals can expect and the funds they truly need to meet basic living needs. Even on the path to receiving this clearly inadequate support, beneficiaries face numerous unjustified and unacceptable obstacles—such as errors in the Social Card system, the unlawful inclusion of income from seasonal work, and the arbitrary attribution of foregone income.

THE RIGHT TO ADEQUATE HOUSING

The reports and analyses of the A 11 Initiative have repeatedly underscored persistent challenges related to the realization of the right to adequate housing in Serbia. While such issues have historically affected the most vulnerable citizens, the prolonged neglect of this area has led to a growing number of people being unable to exercise their right to adequate housing, as defined in international human rights instruments—most notably, Article 11 of the International Covenant on Economic, Social and Cultural Rights.

In 2024, no significant progress was made regarding the realization of this right, particularly for the most vulnerable groups. The challenges identified in previous periods—beginning with the privatization of public housing in the 1990s, followed by armed conflicts and the mass arrival of refugees and internally displaced persons, as well as the failure to establish a sustainable social housing system for the most disadvantaged—have culminated in the current situation. Today, the right to housing is almost entirely absent from public discourse concerning the state's obligations under the International Covenant on Economic, Social and Cultural Rights. The topic arises only occasionally, typically in the context of forced evictions of informal Roma settlements by local authorities, or in isolated cases of emergency accommodation provided to individuals who have lost their homes due to fires, floods, or other disasters.

Access to adequate housing remains out of reach for numerous categories of citizens—including Roma[214], internally displaced persons[215], refugees, people experiencing homelessness[216], and those unable to meet their housing needs through the market due to low wages, unemployment, or the high and unregulated cost of housing, resulting from the absence of price control mechanisms.

The situation of persons experiencing homelessness in Belgrade and other urban centers has not improved in the reporting period. On the contrary, the persistent problems regarding the lack of shelter capacity, the absence of homelessness prevention programs, and inadequate care for individuals already in a situation of homelessness remain unresolved. The only positive, albeit long-overdue, development in this area is the lifting of COVID-19-related restrictions for admission to the Shelter for Adults and the Elderly in Belgrade, which only came into effect in April 2024. Measures such as mandatory negative antigen tests and the permanent isolation of users remained in force for an extended period due to questionable decisions made by epidemiologists at the City Institute for Public Health and the Social Welfare Inspection. Contrary to the official guidelines of the Ministry of Labor, Employment, Veteran and Social Affairs and the practice of all other social welfare institutions in Serbia, these institutions insisted for years that both new and existing users of the Shelter for Adults and the Elderly in Kumodraška Street be subject to COVID-19

214 The latest research conducted by the UN Human Rights Unit in Serbia and the Social Inclusion and Poverty Reduction Unit has shown that there are over 167,000 Roma living in informal settlements. For more information on the research, see: https://serbia.un.org/sites/default/files/2021-02/Mapiranje_podstandardnih_romskih_naselja_SRB_web.pdf, May 2021.

215 According to the research by the Commissariat for Refugees and Migration, there are over 68,000 internally displaced persons in need in Serbia. For more information on the research, see: https://www.unhcr.org/rs/wp-content/uploads/sites/40/2021/04/02-Stanje-i-potrebe-IRL-2018.pdf, May 2018.

216 Insufficient data concerning homelessness underscores the extent of social exclusion experienced by this demographic. Discrepancies exist in the reported figures of homeless individuals. While citizens' associations highlight the number of beneficiaries of their services, government officials, particularly those situated in Belgrade where the highest concentration of homeless individuals is observed, report the number of these individuals solely in relation to the capacity of social welfare facilities and other constrained resources within the system.

measures as a condition for accessing accommodation services.[217]

During the previous period, a census of the population, households, and housing units was conducted. The analysis of the data collected through this census may contribute to a better understanding of housing conditions in residential buildings. In May 2024, the Statistical Office of the Republic of Serbia published the report "*Residential Buildings*", presenting data on the territorial distribution and key characteristics of residential buildings—specifically, the type of residential building, predominant year of construction, maximum number of floors, elevator availability, and the type of material used for exterior walls.[218] The census data also confirm the ongoing trend of privatization of the public housing stock. According to the 2011 Census, there were 6,298 publicly owned housing units in Belgrade and 21,117 in Serbia overall. The 2022 Census shows that these numbers dropped to 4,542 units in Belgrade and 14,205 in Serbia overall. The relevant local and national institutions have not provided an explanation for this decline in publicly owned housing units.

Despite the dialogues surrounding the attainment of the right to adequate housing frequently centering on the notion of its high cost and insufficient resources for its realization, the Republic of Serbia has been allocating significant resources towards housing developments in recent years, albeit targeted towards specific demographic groups. A program **for the construction of affordable housing for members of the security forces** has been introduced under the *Law on Special Conditions for the Implementation of the Housing Construction Project for Members of the Security Forces*.[219] This law provides preferential treatment to active and retired members of the security

217 These harmful and detrimental practices were abolished following a joint action taken by the A 11 Initiative, the Adventist Development and Relief Agency (ADRA), and the Psychosocial Innovation Network (PIN), all members of the Network for Combating Homelessness; see the Network's statement available at: https://www.a11initiative.org/prihvatiliste-u-beogradu-konacno-ukinulo-kovid-mere-kojima-je-uslovljavalo-osobe-u-situaciji-beskucnistva/

218 Statistical Office of the Republic of Serbia, *Residential Buildings*, May 2024, available at: https://publikacije.stat.gov.rs/G2024/Pdf/G20244002.pdf

219 "Official Gazette of the RS", Nos. 41/2018, 54/2019, 9/2020, 52/2021, 62/2023, 64/2024.

forces who have not resolved their housing needs, as well as to war veterans, families of fallen soldiers, and both wartime and peacetime military invalids without adequate housing. Despite the substantial public funds invested in the construction of these units, affordable housing for other population groups in need of housing support is almost entirely lacking. Such support is largely limited to project-based assistance financed through international sources, including the European Union and other donors.[220]

In 2024, amendments to the *Law on Special Conditions for the Implementation of the Housing Construction Project for Members of the Security Forces* were adopted. Among other provisions, these amendments prohibit individuals who have signed purchase agreements for these apartments from renting them out. The practice of renting out publicly funded apartments intended to address the housing needs of security personnel—undertaken by some beneficiaries—demonstrates that this housing model is unsustainable. Rather than meeting housing needs, it enables profit-making by those who were among the first to acquire these subsidized apartments under the law. While the introduction of a ban on renting these apartments (given that they were built with public funds for a clearly defined purpose) represents a step toward improved regulation, it does not resolve the issue in its entirety. On the contrary, the abundance of advertisements offering these apartments for rent in cities where affordable housing for security personnel was developed suggests that the provision is not being enforced and that the situation on the ground remains unchanged.

Meanwhile, the most vulnerable citizens continue to lack access to mechanisms that would enable the realization of their right to adequate housing. Affordable housing programs are virtually nonexistent, and the public housing stock available for social and non-mar-

220 For example, projects under the Regional Housing Program to address the housing needs of refugees or the recently launched EU Support to Social Housing and Active Inclusion Project, which allocates 27 million euros for providing sustainable housing solutions and active inclusion measures for persons with disabilities, young people without parental care, women victims of domestic violence, and Roma.

ket-based housing is shrinking. Furthermore, the number of available housing units is insufficient to meet the needs of those requiring housing support. Finally, the procedures set out in the *Law on Housing and Building Maintenance* for addressing urgent housing needs are non-functional—there are no known cases in which they have been successfully applied. In these circumstances, "housing solutions" for the most vulnerable are largely reduced to informal arrangements—whether through unregulated rentals on the private market, informal construction, or, in the most extreme cases, informal living in substandard[221] structures or settlements.

A large number of Roma are in this situation, and efforts to improve housing conditions for Roma are insufficiently ambitious, where they exist at all, and generally ineffective. Overall, they indicate a lack of perspective that the situation will improve in the foreseeable future. According to data collected through the mapping of substandard Roma settlements, over 32,000 Roma in these settlements lack access to water[222] and over 24,000 of them do not have access to electricity.[223] No progress has been made in improving the position of persons experiencing homelessness either. Aside from urgent and temporary shelter, there are no indications that steps are being taken in Belgrade or other cities—where the largest numbers of people experiencing homelessness reside—to improve their situation.[224]

In its previous review process, the United Nations Committee on Economic, Social and Cultural Rights expressed concern over the

221 Recently, the term "substandard settlements" has often been used interchangeably with the term "informal settlements." In this report, the term "substandard settlements" is used only in cases where it is employed by other actors working in the field of the right to adequate housing.

222 UN Human Rights Team in Serbia and the Team for Social Inclusion and Poverty Reduction, *Mapping of Substandard Roma Settlements by Risks and Access to Rights, with a Special Focus on the COVID-19 Epidemic*, p. 10.

223 *Ibid.*, p. 14.

224 During 2023, the Ministry of Human and Minority Rights and Social Dialogue organized a series of social dialogues addressing the issue of homelessness, creating conditions for a better understanding of this phenomenon and the exchange of knowledge and experiences on how to address it. However, aside from these dialogues, no progress has been observed in improving the situation of people experiencing homelessness.

discrimination faced in Serbia by persons from the most vulnerable population groups, in accessing the right to adequate housing.[225] The Committee also issued several recommendations aimed at improving access to adequate housing, including:

- Increasing the number of housing units designated for social housing for the most vulnerable categories of citizens;
- Eliminating property taxes levied on the rental of social housing and housing designated for refugees and internally displaced persons;
- Providing durable housing solutions for people living in informal settlements, and in the meantime, improving housing conditions in those settlements;
- Ensuring that evictions, when unavoidable, are carried out in accordance with the law, preceded by consultations and subject to appeal mechanisms, and that the principles set out in General Comment No. 7 of the Committee, which deals with eviction procedures, are respected.[226]

Although institutional mechanisms exist to monitor the implementation of these and similar recommendations received by the Republic of Serbia from UN treaty bodies—primarily through the Government's Council for Monitoring the Implementation of UN Human Rights Recommendations—none of the Council's sessions since these recommendations were issued have included any discussion of plans for their implementation.

225 UN Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Serbia, 6 April 2022, UN Doc. no. E/C.12/SRB/CO/3, paragraf 28.
226 *Ibid*., paragraphs 57-58.

Implementation of the Law on Housing and Building Maintenance[227]

Reports by the A 11 Initiative has previously highlighted that the umbrella law in the field of housing, which regulates matters such as the management of residential buildings, building maintenance, eviction and resettlement procedures, and social housing (now called "housing support") adopted in late 2016, with subsequent amendments in 2020, has not led to any significant improvement in the realization of the right to adequate housing. Moreover, public policy documents mandated by this law have not been adopted as of 2024. The Housing Council, as foreseen by the law, has not been established, nor have measures been undertaken to implement housing support programs.[228] All of this leads to the conclusion that in the area of housing support—i.e., social housing—the situation has been left to neglect, resulting in further erosion of the right to adequate housing. Opportunities to exercise this right are reduced to uncertain, case-by-case solutions in municipalities where there happens to be both budgetary resources and political will to provide housing support to citizens.

The failure to further regulate access to social housing and to ensure the financial, technical, and other resources needed to establish a sustainable affordable housing system demonstrates not only a dis-

227 "Official Gazette of the RS", Nos. 104/2016 and 9/2020.

228 At the end of 2021, the Ministry of Construction, Transport, and Infrastructure initiated a public discussion on the Draft National Housing Strategy for the period 2022–2032, which has not yet resulted in the adoption of the document. Despite the importance of this strategic document for the realization of the right to housing, and the fact that its preparation has been delayed for years, the responsible ministry conducted the public consultation non-transparently, and the steps that should have preceded the adoption of the Draft National Housing Strategy for 2022–2032 were absent. Comments submitted by the few associations working on housing issues, as well as by the expert public, were mostly rejected; nevertheless, the strategic document has still not been adopted. For more information: A 11 – Initiative for Economic and Social Rights, "*Distorted Picture, Economic and Social Rights in Serbia*," May 2022, p. 56, available at: https://www.a11initiative.org/wp-content/uploads/2022/05/Izves%CC%8Ctaj%20Iskrivljena%20Slika%20(1)~.pdf?_t=1663934511.

regard for the needs and position of the most housing- and socially-vulnerable citizens, but also provides evidence that the Republic of Serbia, through inaction in this area, is in breach of its obligations under Article 2, Paragraph 1 of the International Covenant on Economic, Social and Cultural Rights. This provision of the Covenant requires State Parties to take steps, to the maximum of their available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means. In short, states are expected to progressively enhance the realization of the Covenant's rights—something that has been consistently lacking for years when it comes to improving access to social and affordable housing for the most vulnerable in Serbia.

Furthermore, the established procedures for **eviction and resettlement,** as mandated by the law, have not been duly observed in instances of collective evictions. Only a few local self-government units have conducted these procedures as stipulated by the Law on Housing and Building Maintenance, and even then, not without shortcomings that were detrimental to the individuals affected by the evictions. One such case involved the forced eviction of secondary raw material collectors who lived on the outskirts of the Vinča landfill due to the construction of a waste incineration plant. In light of the challenges encountered by the aforementioned group of collectors throughout the eviction procedure, the A 11 Initiative has commenced a mediation process before the Independent Project Accountability Mechanism (IPAM) of the European Bank for Reconstruction and Development, which financed the project.[229] This Independent Project Accountability Mechanism resulted in an agreement between the A 11 Initiative, representing the collectors who lived and worked at the Vinča landfill before eviction, the City of Belgrade, the City of Šabac, the Municipality of Vladimirci, and the company "Beo Čista Energija" which, through a public-private partnership, was a recipient of the European Bank for Reconstruction and Development funds. This allowed all collectors from Belgrade who lived at the landfill to access social housing in sup-

229 For more information, see: https://www.ebrd.com/work-with-us/projects/ipam/2021/01.html.

portive environemnts, which were preceded by housing solutions with exceptionally high living costs. Households from Šabac were allowed to buy and repair rural households, while households from Vladimirci were granted the use of newly constructed facilities in that municipality.[230] Unfortunately, the competent institutions and the participants in the mediation process did not undertake all the measures prescribed by the agreement, and some residents of these dwellings continue to face challenges in exercising their rights.

While no cases of mass forced evictions were recorded in the previous year, several earlier assessments remain relevant. One particularly severe case involved the eviction of two Roma families from beneath the "Mostar" overpass in Belgrade, carried out by the municipal police in October 2024. On the morning of October 1, 2024, the municipal police, with the assistance of city utility services, demolished the structures and forcibly evicted the two Roma families residing beneath the "Mostar" overpass, without prior notice or an official eviction order. This action constituted a violation of both **domestic legislation and international human rights standards** that guarantee the right to adequate housing and protection against forced eviction. The families affected by this action of the municipal police and city services had been living at the site for six months prior to the eviction and were in an extremely precarious socioeconomic situation. Their sole source of income was the collection of secondary raw materials. Given these circumstances, they were unable to secure housing on their own, and their only remaining option had been to construct makeshift shelters beneath the overpass.

The eviction affected two households comprising six individuals, three of whom were minors, including a one-year-old infant. Following the forced eviction, one family found temporary accommodation with friends, while the other spent the night on the street. All of their movable property was destroyed, including personal identification documents.

230 Part of the concluded Agreement is a confidentiality clause, which prevents a more detailed presentation of the outcome of this process.

Increased Risk of Family Separation When Housing Needs Are Unmet

A concerning practice has recently emerged among centers for social work, whereby families and households at risk of forced eviction are further exposed to the risk of family separation. This practice disproportionately affects Roma children living in informal settlements. In such cases, children face additional marginalization as a result of the authorities' failure to provide alternative housing to their families, in violation of the Convention on the Rights of the Child and Article 11 of the International Covenant on Economic, Social and Cultural Rights. The A 11 Initiative has documented cases in Belgrade where the only alternative offered by centers for social work to Roma families with children—following decisions to demolish their dwellings—was the separation of family members. In these instances, minor children were placed in the Children's Shelter, while adult family members were accommodated in the Shelter for Adults and the Elderly. By confronting families with such an ultimatum, social protection institutions effectively force them to choose between losing their home and being separated as a family. These actions raise serious concerns as to their compatibility with Article 8 of the European Convention on Human Rights, which guarantees the right to respect for private and family life.

Case Study: Informal Settlement "Antena"

As early as March 2023, the A 11 Initiative was informed of preparations for a forced eviction of the informal Roma settlement "Antena," located at the terminus of bus line 75 in the Municipality of New Belgrade. In this settlement, under extremely inadequate and inhumane conditions, forty Roma families have lived since their internal

displacement from Kosovo. At the end of March 2023, they received decisions from the Communal Inspection Department of the New Belgrade Municipality, instructing them to remove their homes within 24 hours of the decisions being issued.

These measures were based on the City Decision on Maintenance of Cleanliness[231], the Decision on Municipal Order[232] and the Decision on Municipal Inspection[233], The extremely short deadline for eviction deprived the residents of any meaningful opportunity to exercise their right to legal remedy, as appeals against such decisions do not have suspensive effect. Of particular concern is the fact that the Municipality of New Belgrade treated the homes of dozens of Roma families as if they constituted municipal waste, to be removed within 24 hours—despite the clear procedures governing evictions outlined in Articles 78–87 of the Law on Housing and Building Maintenance.

Given the imminent risk that the demolition would leave the residents without shelter and without the means to safeguard their basic human rights, the A 11 Initiative appealed to relevant institutions, including the Commissioner for the Protection of Equality, the Protector of Citizens, the Municipality of New Belgrade, the Mayor of Belgrade, and the Ministry for Human and Minority Rights and Social Dialogue. Following these appeals—and in view of the fact that the legal remedy of appeal does not suspend enforcement, and that no other legal mechanism was available to protect the residents from an eviction that could be carried out immediately—the A 11 Initiative submitted a request for interim measures to the European Court of Human Rights. The request urged the Court to urgently issue a measure preventing the demolition of dwellings inhabited by Roma residents of this settlement.

231 "Official Gazette of the City of Belgrade", Nos. 27/2002, 11/2005, 6/2010, 2/2011, 10/2011, 42/2012, 31/2013, 44/2014, 79/2015, and 19/2017.
232 "Official Gazette of the City of Belgrade", Nos. 10/2011, 60/2012, 51/2014, 92/2014, 2/2015, 11/2015, 61/2015, 75/2016, 19/2017, 50/2018, 92/2018, 118/2018, 26/2019, 52/2019, 60/2019, 17/2020, 89/2020, 106/2020, 138/2020, 152/2020, 40/2021, 94/2021, 101/2021, 111/2021, 120/2021, 19/2022, 96/2022, 109/2022, 41/2023, 65/2023, and 12/2024.
233 "Official Gazette of the City of Belgrade", Nos. 18/92, 9/93, 25/93, 31/93, 4/94, 2/95, 6/99, 11/2005, 29/2014, 19/2017, 26/2019, 17/2020, and 96/2022.

Following the intervention of the Ministry for Human and Minority Rights and Social Dialogue and the initiation of proceedings before independent bodies, the European Court of Human Rights also issued a statement and imposed an interim measure ordering the Republic of Serbia to refrain from carrying out the eviction until April 20, 2023.

In addition, the Commissioner for the Protection of Equality, within an exceptionally short period of time, issued a recommendation of measures to the New Belgrade City Municipality, emphasizing that the municipality should refrain from proceeding with the eviction.[234] In the meantime, the New Belgrade City Municipality held meetings with settlement residents to inform them that there was no intention to proceed with an eviction, but rather to improve communal infrastructure in the area surrounding the terminal station of bus line 75. Subsequently, part of the settlement's surroundings was improved through the installation of urban furniture, fencing to prevent children from running into the bus terminal, removal of waste, and provision of an informal water connection in one part of the settlement. The Communal Inspection Unit of the New Belgrade City Municipality, Department for Inspection Affairs, subsequently issued a decision based on Article 11 of the International Covenant on Economic, Social and Cultural Rights, annulling the previously issued eviction orders. This marked only the second known instance of direct application of the Covenant in administrative proceedings in the Republic of Serbia.[235]

However, in August 2024, a fire broke out in the settlement, completely destroying seven houses in which 40 Roma lived, including 23 children. These seven families lost all of their movable property in the fire, which spread rapidly and consumed everything before firefighters could intervene.

234 Commissioner for the Protection of Equality, Recommendation of measures to the Municipality of Novi Beograd to refrain from forced evictions of residents of the Roma settlement "Antena", ref. no. 07-00-175/2023-02, 31 March 2023, available at: https://ravnopravnost.gov.rs/243-23-preporuka-mera-go-novi-beograd-da-se-uzdrzi-od-prinudnog-iseljavanja-stanovnika-i-stanovnica-romskog-naselja-antena/.
235 Municipality of Novi Beograd, Decision no. XIII-355.1-89/23, 10 April 2023.

Following the fire, the legal team of the A11 Initiative visited the settlement and, on behalf of four affected families, submitted requests for one-time financial assistance to the competent center for social work. For the remaining three families, the fact that they had registered residence in the territory of Kosovo posed an obstacle to accessing assistance. Despite the fact that 23 children were left without shelter as a result of the fire—and while Belgrade was experiencing an extreme heatwave in August 2024—local and city authorities failed to provide accommodation to the affected families. As a result, the families spent several nights in cars and makeshift beds under the open sky. In the absence of any response from the competent authorities, they began rebuilding temporary shelters from scratch.

Despite last year's positive development, when the New Belgrade City Municipality abandoned the forced eviction—initially treated as if the issue concerned municipal waste—the lack of institutional response to the urgent need for emergency housing for families who lost all their property in the fire reveals a severe absence of institutional and other mechanisms capable of ensuring dignified housing for the most vulnerable, even in the face of fires and other disasters.

Failure to Address the Issue of Unaffordable Social Housing

As highlighted in the reports "*Second-Class Rights*", "*A Distorted Picture*", and "*Everyday Injustice*", access to affordable housing remains a serious concern for many households in the Republic of Serbia. The recent rise in rental prices and electricity costs has not been accompanied by support measures for the families most affected by these increases.

In late November 2022, a group of Members of Parliament submitted to the National Assembly a Draft Law on the Lease of Apartments and

Houses for Residential Purposes and on Controlled Rent[236], aimed at addressing this issue through the introduction of rent control mechanisms. However, as the proposal was submitted by opposition MPs, the Draft Law has not yet been placed on the Assembly's agenda.

The social housing system in Serbia remains underdeveloped, and even citizens who manage to qualify for social housing (in the rare instances when public calls for such allocation are actually issued) often cannot afford the associated costs.[237] In 2024, additional cases were recorded in which certain social housing beneficiaries were required to pay property tax. This tax is levied on leases exceeding one year for dwellings designated for social housing, including those intended for refugees and internally displaced persons. The abolition of this tax has been recommended by both the UN Committee on Economic, Social and Cultural Rights and the former UN Special Rapporteur on the Right to Adequate Housing. This de facto "poverty tax" represents a significant financial burden placed on the most vulnerable individuals solely due to their financial and housing insecurity.[238] Given the extremely limited number of dwellings allocated for social housing, refugee housing, and housing for internally displaced persons, this tax does not generate any meaningful revenue for local governments. Instead, it constitutes an unnecessary and disproportionate burden on the most disadvantaged citizens. Previous efforts to challenge this tax obligation through a constitutional complaint submitted by a social housing beneficiary have not been successful. The Constitutional Court found that, despite the unjustifiably unequal treatment of certain categories of citizens, the harm caused by this taxation was not sufficiently serious to justify the Court's intervention.[239]

236 For more information, see: http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/13_saziv/011-2581_22.pdf.
237 The issue of insufficient affordability of social housing in Serbia was highlighted as early as 2016 by the United Nations Special Rapporteur on the right to adequate housing during her visit. Recommendations made to Serbia following this visit have yet to be implemented to this day. For more information, see the report on the visit to Serbia, UN document no. A/HRC/31/54/Add.2.
238 On this matter, the Constitutional Court has not yet ruled.
239 Constitutional Court decision no. UŽ 2102/2018, dated 11 September 2019.

Persistent issues in specific social housing complexes—particularly in Belgrade—remain unresolved. In the Kamendin settlement alone, residents of 235 apartments are facing court or enforcement proceedings due to debts related to the lease of social housing units and utility charges collected by *Infostan*.[240] Many households in this neighborhood no longer have valid contracts, as their five-year lease agreements have expired and they do not meet the conditions for renewal—most notably due to irregular payment of *Infostan* bills. These residents live under the constant threat of forced eviction. Despite repeated appeals by residents for the intervention of relevant city and national authorities, these calls have gone unanswered. As early as 2019 and 2020, residents of this neighborhood submitted formal appeals to the Belgrade City Secretariat for Social Protection, the Secretariat for Property and Legal Affairs, the Mayor of Belgrade, and the Protector of Citizens, requesting solutions to the challenges they faced. None of these institutions provided a positive response. Consequently, the burden of unpaid bills and the ongoing threat of forced eviction remain a daily reality for many families in this settlement. Although this neighborhood is not the only one in Belgrade or Serbia where residents face significant obstacles in exercising their right to adequate housing, it serves as a compelling example. The competent authorities are fully aware of the situation and have received repeated recommendations from human rights bodies emphasizing the need to improve conditions in the settlement. Nevertheless, institutional responses remain absent, as does a systemic approach to ensuring the right to adequate housing in Serbia.

* * *

Conclusion

Numerous challenges related to the realization of the right to adequate housing have persisted for years. These issues stem not only from an inadequate legal framework but also from a lack of political will to ad-

240 Data obtained based on requests for access to information of public importance on 17 April 2025.

dress them in line with the standards established by the United Nations Committee on Economic, Social and Cultural Rights. Although decision-makers continue to promote affordable housing programs as a means of meeting citizens' housing needs, the selection of beneficiaries under these programs is carried out non-transparently and without public participation in the development of eligibility criteria. Moreover, the housing units built through these programs may be purchased, which fails to address the chronic shortage of housing units in public ownership—units that local governments should be able to allocate based on housing need priorities. Such an approach to housing rights does not yield adequate results and further exacerbates housing inequalities.

The lack of dialogue on alternative models for meeting citizens' housing needs, as well as the absence of measures to improve housing conditions for the most vulnerable—including residents of informal settlements, informal collective centers, and those experiencing homelessness—further underscores the urgent need for comprehensive reforms in the housing sector to improve the current situation.

THE RIGHT TO HEALTH

The right to health is protected by a series of international law documents that the Republic of Serbia has ratified. One of them is the International Covenant on Economic, Social and Cultural Rights, which emphasizes in Article 12 and elaborates in General Comment No. 14 that the states parties recognize the right of every individual to enjoy the highest attainable standard of physical and mental health. This includes, inter alia, the obligation to implement measures necessary to create conditions for the provision of medical services and medical care in the event of illness. The Constitution of the Republic of Serbia, in Article 68, states that *everyone* has the right to the protection of their physical and mental health, and in paragraph 2 of the same Article, it specifies particular categories protected by the Constitution: children, pregnant women, mothers during maternity leave, single parents with children up to the age of seven, and the elderly. It provides that the right to health protection of the aforementioned categories will be ensured through public funds if it is not otherwise secured in accordance with the law. In practice, the situation manifests differently – citizens encounter various discriminatory practices, particularly those without personal documentation, as well as members of the Roma community, internally displaced persons, homeless individuals, beneficiaries of social protection institutions, precarious workers, and others in similarly vulnerable positions.

The provisions of Article 68 of the Constitution do not specify the type and scope of health protection but authorize the legislator to regulate the healthcare system through laws governing health insurance, health protection, and the establishment of health funds. The umbrella laws in this area, the Law on Health Protection[241], and the Law on Health Insurance[242], were enacted in 2019. One of the most controversial novelties introduced by the Law on Health Insurance was that insured persons who contract diseases subject to preventive screening and do not respond to or justify their absence from screening will receive treatment covered at a minimum of 65% of the cost of the healthcare service. In other words, they will be forced to bear the remaining 35% of treatment costs themselves.[243] By introducing such an unfair and disproportionate sanction for failing to attend screening examinations, the Health Insurance Law disproportionately affects the most impoverished individuals who are unable to contribute to the cost of medical treatment—fundamentally contradicting the principle of social justice. Moreover, it is important to consider that numerous studies have shown that older individuals (who are more frequently required to undergo mandatory screening examinations) tend to have lower levels of health literacy. In addition, lower levels of education and poor socioeconomic conditions are key factors influencing health literacy, which in turn affects an individual's ability to understand their illness, make informed decisions, access relevant information, and improve their health.[244] Apart from occasional announcements that screening examinations would resume as of September 2024[245] there is no known public campaign—particularly targeting those with limited access to information—aimed at raising awareness

241 "Official Gazette of the RS", Nos. 25/2019 and 92/2023-384 and 29/2025 – Constitutional Court decision.

242 "Official Gazette of the RS", Nos. 25/2019 and 92/2023.

243 For more information, see the A 11 Initiative, *Economic and Social Rights in Serbia: Distorted Picture,* op. cit.

244 See, for example, Jelena Gotić et al., "*Assessment of Health Literacy among Adults Receiving Healthcare at the Pirot Health Centre and the Determining Factors,*" in Zdravstvena zaštita, Vol. 53, No. 4, December 2024, pp. 52 and 54.

245 See, for example, Portal 021, "*For the Health of the Nation: Screenings for Individuals Over 40 and the Reintroduction of Routine Health Check-Ups for Students*," 26 June 2024, available at: https://www.021.rs/story/Info/Srbija/379786/Za-zdravlje-nacije-Skrininzi-za-starije-od-40-godina-a-vracaju-se-i-sistematski-pregledi-djaka.html.

about the importance of screening examinations or the sanctions for failing to attend.

Amendments to the Law on Health Insurance, passed in October 2023,[246] have limited the duration of sick leave approvals by attending physicians, reducing the maximum period from 60 days to 30 days (with particular exemptions),[247] after which the insured person must be referred to the first-instance medical commission. It is important to note that in two opinions on the draft amendments to the Health Insurance Law, the Commissioner for the Protection of Equality pointed out that the obligation to assess the impact of this regulation on socio-economically vulnerable groups had not been fulfilled, even though this responsibility was introduced by amendments to the Law on the Prohibition of Discrimination in 2021.[248] In February 2022, the Serbian Government adopted the Digitalization Program in the Health System of the Republic of Serbia for the period 2022-2026, while the 2022-2023 Action Plan for the Implementation of the Digitalization Program was enacted in May 2022.[249] [250] In October 2023, the Law on Health Documentation and Records in the Field of Health

246 "Official Gazette of the RS", No. 92/2023 dated 27 October and entered into force on 4 November 2023.

247 The initial version of the Draft Law on Amendments to the Law on Health Insurance stipulated that the designated physician could authorize sick leave for a maximum of 15 days instead of the former 60 days, yet the revised version of the draft extended the duration to 30 days. See also, Commissioner for the Protection of Equality, *Opinion on the Draft Law on Amendments to the Law on Health Insurance*, No. 011-00-20/2023-02, dated 4 August 2023, available at: https://ravnopravnost.gov.rs/rs/1049-23-misljenje-na-nacrt-zakona-o-izmenama-i-dopunama-zakona-o-zdravstvenom-osiguranju/.

248 Commissioner for the Protection of Equality, Opinion on the Draft Law on Amendments to the Health Insurance Law, No. 011-00-20/2023-02, dated 4 August 2023, and Opinion on the Draft Law on Amendments to the Health Insurance Law, No. 011-00-23/2023-02, dated 8 September 2023, available at: https://ravnopravnost.gov.rs/rs/1098-23-misljenje-na-nacrt-zakona-o-izmenama-i-dopunama-zakona-o-zdravstvenom-osiguranju/. See Article 14 of the Law on Prohibition of Discrimination ("Official Gazette of the RS", Nos. 22/2009 and 52/2021).

249 The Digitalization Program in the Health System and the Action Plan for its implementation are available at: https://www.zdravlje.gov.rs/tekst/364590/program-digitalizacije-u-zdravstvenom-sistemu.php.

250 A study conducted by the Ministry of Health and NALED in March 2023 shows that one-third of citizens do not have a clear understanding of how the digitalization of healthcare procedures would benefit them. Interestingly, those who believe that further digitalization in healthcare would be useful most frequently cite the scheduling of doctor appointments as a procedure they would like to see digitalized—even though this process is already partially available in electronic form. *Ibid.*

was adopted.[251] One of the most significant innovations introduced by this law is the e-Medical record (e-Karton), an electronic medical file that serves as a digital extract of data from a patient's basic medical documentation maintained in electronic form.[252] The e-Medical record is expected to be implemented by January 2025, and it will be accessible through the *e-Uprava* (e-Governemnt) portal to patients, their chosen general practitioner, as well as to all other specialists to whom the patient is referred to).[253] As of 2024, the e-Medical record system has become partially operational, and the e-Health portal (e-Zdravlje) is now accessible through the e-Government portal (eID.gov.rs).[254]

In its 2024 report on Serbia, the European Commission recommended that the country amend the Law on Health Records and Documentation in the Field of Health Care to align it with the European Union's data protection regulations.[255] The report also underscored the lack of progress in addressing health inequalities.[256]

A March 2023 study conducted by NALED found that one in two citizens in Serbia is satisfied with the quality of services provided in public healthcare institutions. However, the main issues identified include poor organization, staff shortages, and a lack of motivation among healthcare workers.[257] A quarter of respondents cited corruption and bribery in healthcare institutions as a concern, while more than one-third reported being unable to access services in public institutions over the previous three years.[258] The most frequently cited reasons

251 The Law was published in the "Official Gazette of the RS", No. 92/2023 dated 27 October 2023, and entered into force on 4 November 2023, from which date it applies, except for Article 17, which applies six months after the entry into force of this Law, Article 23, paragraph 2, Article 24, paragraph 2, Articles 28, 34, 46, 47, 49, 50, and 51, which apply from January 1, 2025.
252 For more information, see, for example, Dušan Rajaković, *"Commentary on the Law on Health Documentation and Records in Healthcare"*, Lege Artis, No. 1/2024.
253 *Ibid.*
254 See: https://www.e-zdravlje.gov.rs/landing/?v=20231213.
255 European Commission Serbia 2024 Report, op. cit., p. 13 and 74.
256 *Ibid.*, p. 75.
257 NALED, *Citizen satisfaction with the public healthcare system*, March 2023, available at: https://naled.rs/htdocs/Files/12608/Zadovoljstvo-gradjana-i-lekara-zdravstvenim-sistemom-u-Srbiji_NALED.pdf. See also: BBS News in Serbian, *Medicine and Serbia: How to improve healthcare in the country – doctors give nine proposals*, 28 June 2023.
258 *Ibid.*

were the unavailability of appointments or the urgent nature of the required service combined with excessively long waiting times.[259]

With regard to legislative developments in the area of health care, the Constitutional Court, at its session held on 26 September 2024, found that the provisions of Article 210, paragraph 1, items 2 and 3 (as well as paragraph 1 of Article 212 and paragraphs 1 and 2 of Article 213) of the Law on Health Care were not in accordance with the Constitution. These provisions concern the retrieval of bodies of deceased persons without family for the purpose of conducting practical training.[260]

Despite extensive formal guarantees of the right to health care, there remains a significant gap between these guarantees and their practical accessibility. The Fiscal Council continues to warn of a shortage of professional staff in sectors critical to the functioning of the state, particularly healthcare, estimating that the sector lacks approximately 3,000 qualified workers.[261] Furthermore, in its analysis of the Fiscal Strategy for 2023, with projections for 2024 and 2025, the Fiscal Council notes a significant disparity in equipment and the quality of healthcare services between Serbia and Central and Eastern European countries. It also observes that the current resources of Serbia's healthcare system are insufficient to meet the growing demand for medical services—as evidenced by the fact that, in May 2022, nearly 60,000 people were on waiting lists for various surgical procedures.[262] The Council warns that neither the Fiscal Strategy nor the Economic Reform Program addresses these structural issues, reducing healthcare reform instead to the process of digitalization. All of these shortcomings have direct consequences for the realization

259 *Ibid.*

260 Constitutional Court, IUz-106/2019.

261 Fiscal Council, Assessment of the Draft Budget Law of the Republic of Serbia for 2023, 2 December 2022, available at: https://www.fiskalnisavet.rs/doc/ocene-i-misljenja/2022/FS-Ocena_budzeta_2023_v1.pdf

262 Fiscal Council, Opinion on the Draft Fiscal Strategy for 2023 with projections for 2024 and 2025, 31 May 2022, available at: https://www.fiskalnisavet.rs/doc/ocene-i-misljenja/2022/FS_Misljenje_Nacrt_Strategija_2023-2025.pdf. According to research conducted by the Ministry of Health and NALED in March 2023, it has been revealed that one out of every ten doctors surveyed intends to relocate abroad within the next five years. NALED, Citizen satisfaction with the public healthcare system, op. cit.

of the right to health, particularly among members of marginalized social groups. This concern was also recognized by the United Nations Committee on Economic, Social and Cultural Rights, which, in its review of the third periodic report of the Republic of Serbia, issued a recommendation urging the state to expand the scope and improve the quality of healthcare services provided under the health insurance system, with the aim of eliminating socioeconomic disparities in access to healthcare.[263] The Committee also called on the state to take urgent measures to address the situation in which persons without personal identification documents are denied access to social services, including healthcare.[264] Serbia was further advised to ensure that primary healthcare is available to all individuals residing in the country.[265] However, undocumented persons—who in Serbia are almost exclusively Roma—continue to be unable to register for health insurance. As a result, their access to primary and preventive healthcare remains either entirely denied or severely limited.

It is important to recall that significant disparities persist in Serbia between health indicators for Roma and non-Roma children.[266] The under-five mortality rate in Roma settlements stands at 9.0 per 1,000 live births. The estimated infant mortality rate among the Roma population in Serbia is also significantly higher than the national average—8 per 1,000 live births.[267]

In its May 2024 Concluding Observations on Serbia, the United Nations Human Rights Committee expressed concern that Roma, particularly internally displaced Roma living in informal settlements, continue to face high levels of poverty and social exclusion.

263 Committee on Economic, Social and Cultural Rights, *Concluding observations on the third periodic report of Serbia*, 4 March 2022, available at: https://digitallibrary.un.org/record/3969915.
264 *Ibid.*, p. 31(a).
265 *Ibid.*, p. 59(c).
266 UNICEF, 62.
267 *Ibid.*

These challenges are reflected in poorer outcomes in education, employment, and health, as well as in limited access to basic services such as electricity, drinking water, and sanitation.[268]

Access to Health Care for Persons without Registered Residence and Personal Documents

Under Article 16, paragraph 1, item 11 of the Law on Health Insurance[269], individuals of Roma ethnicity who, due to their traditional way of life, do not have registered permanent or temporary residence in the Republic of Serbia are considered insured persons, provided they do not meet the criteria for acquiring insured status in any other manner or as family members of insured persons. However, in practice, due to inconsistencies between by-laws and higher-ranking legal acts, Roma individuals without permanent or temporary residence registered, whom the legislator recognizes as a special category of insured persons precisely because they lack permanent or temporary residence registration, are still required to provide proof of registered residence at the address of the relevant center for social work when applying for health insurance.

Since 2011, the Law on Permanent and Temporary Residence[270] has provided the possibility to register residence at the address of the relevant center for social work for persons who cannot register residence otherwise. However, the procedure for residence registration

268 Human Rights Committee, Concluding observations on the fourth periodic report of Serbia, 3 May 2024, paragraph 18.
269 "Official Gazette of the RS", Nos. 25/2019 and 92/2023.
270 "Official Gazette of the RS", No. 87/2011.

remains complicated and unduly lengthy.[271] Citizens are impeded from exercising their healthcare rights due to the absence of a registered permanent residence, which prevents them from acquiring an ID card and health insurance card. This issue predominantly affects members of the Roma community (especially internally displaced Roma and returnees under the readmission agreement) and homeless individuals.

In November 2013, the Law on Exercising the Right to Health Care for Children, Pregnant and Puerperal Women was adopted[272], regulating access to health care for these groups in cases where they are unable to exercise this right under the law governing health insurance. Thanks to this law, children, pregnant and puerperal women can access healthcare based on a health insurance document (health booklet), regardless of whether the document is validated. To exercise their right to healthcare, in addition to the health booklet, pregnant and puerperal women need a specialist doctor's report confirming pregnancy or a discharge list from childbirth, while for children, a birth date or unique citizen identification number is sufficient.[273] However, this law only regulates access to healthcare for those who already have a health booklet[274], but whose card is not validated due to unpaid contributions or other reasons. It does not apply to children, pregnant and puerperal women who do not possess a health booklet at all.

271 Data obtained from organizations providing legal aid to undocumented individuals in the residence registration procedure (which is a prerequisite for obtaining personal documents) reveals that this process typically spans a duration ranging from 3 to 12 months. Greater insights are provided in a shared report submitted by a group of organizations and unions to the United Nations Committee on Economic, Social and Cultural Rights in December 2021, available at: https://www.a11initiative.org/wp-content/uploads/2022/03/Zajednicki-podsetnik-komitetu-UN.pdf. See also: Platform of Organizations for Cooperation with UN Human Rights Mechanisms, Alternative report to the Committee on Economic, Social and Cultural Rights, January 2022, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=ICEnwWR8rbeJM8O1ALabPx9WVEvqIcDU7lm8G9kagoVEWKEWk3jQn/QFvBKlzs0yeTCH11ljEVQodM88pJV7gg==. The experiences of the A 11 Initiative during 2022, 2023, and 2024 show that the procedures for determining permanent residence last between four and eight months, while in cases where an appeal is filed, the proceedings can take up to a year and a half.

272 "Official Gazette of the RS", No. 104/2013.

273 Republic Health Insurance Fund, *Implementation of the Law on the Realization of Rights to Health Care of Children, Pregnant and Puerperal Women*, available at: http://www.rfzo.rs/download/zakoni/Instrukcija_obrasci_trudnice.pdf.

274 Although the term "health insurance card" is used in the regulations, the term "health booklet" will be used in the report for simplicity.

Notwithstanding the provisions outlined in the Law on Exercising the Right to Healthcare for Children, Pregnant and Puerperal Women, which stipulates access to healthcare exclusively for individuals in possession of, or with the ability to procure (even an unverified) health booklet, it is imperative that all children, pregnant and puerperal women have access to healthcare in accordance with the international agreements Serbia has committed to and the directives issued by the entities overseeing the fulfillment of these commitments.[275]

That being said, it is apparent that children, pregnant and puerperal women from marginalized groups still encounter difficulties in obtaining healthcare services, even in the urgent matter of childbirth, and emergency medical assistance is guaranteed to any individual who does not exercise the right to emergency medical assistance in another way.[276]

A matter of particular concern within the healthcare sector pertains to the **billing or endeavoring to bill expenses associated with childbirth or pregnancy-related medical services to uninsured pregnant and puerperal women**. The A 11 Initiative encountered cases

275 In February 2017, the Committee on the Rights of the Child recommended to the Republic of Serbia to ensure the availability of and equitable access to quality primary and specialized care for all children in the country, and strengthen efforts to ensure that access to adequate health care, including prenatal care for uninsured pregnant women, is extended to families living in the most vulnerable situations, particularly those living in marginalized and remote areas. Committee on the Rights of the Child, *Concluding observations on the combined second and third periodic reports of Serbia*, op. cit., paragraph 46. Since then, more than seven years have passed, and no concrete steps have been taken to implement these recommendations and ensure access to health care for children and pregnant women lacking documentation and insurance coverage.

276 Pursuant to Article 17, paragraph 1, item 9 of the Law on Health Care (Official Gazette of the RS, No. 25/2019), in the interest of public health care, the Republic of Serbia offers emergency medical aid to individuals of unknown domicile and those who do not meet the criteria for emergency medical aid through other channels in accordance with the law.

in 2018,[277] 2020[278] i 2022[279] where undocumented Roma pregnant and puerperal women received extremely high bills for childbirth or pregnancy-related healthcare services. In 2023, the A 11 Initiative did not encounter new attempts to charge childbirth costs, but three undocumented pregnant women still sought help from the organization, fearing they would have to pay for childbirth costs.[280]

It is important to emphasize that, in addition to the Law on Exercising the Right to Healthcare for Children, Pregnant and Puerperal Women, which fully pertains to healthcare access for these categories, Article 17, paragraph 1, item 9 of the Law on Health Care stipulates that the Republic of Serbia, as a general interest in healthcare, provides emergency medical assistance funded from the budget of the Republic of Serbia to persons of unknown residence, as well as to other persons

277 See the A 11 Initiative, *Second-class rights*, op. cit.

278 There was an incident involving an undocumented seventeen-year-old Romani girl, F. H., who was issued a bill amounting to 249,380 dinars for expenses incurred during childbirth. The charges were eventually waived owing to the intervention of a social worker at the healthcare facility. In a separate instance, an undocumented Romani female, Š. K., was admitted to the hospital following the discovery, through ultrasound, of the absence of fetal heart activity. The pregnancy was concluded via cesarean section, resulting in a stillborn infant. Upon her discharge, a bill surpassing 289,000 dinars was issued to her. The patient borrowed money and paid a deposit of 20,000 dinars, nonetheless, the remainder of the bill was left outstanding due to an absence of income. Subsequent to the patient's discharge, the administrative division of the healthcare facility reached out to request settlement of the outstanding balance, cautioning that failure to comply would result in enforced collection of the bill. The A 11 Initiative facilitated her submission of a petition for exemption from childbirth expenses, yet no reply was forthcoming. For more comprehensive information regarding this issue and attempts to collect childbirth and pregnancy-related health care costs, see the A 11 Initiative - *Second-class Rights*, op. cit.

279 B. H. contacted the A 11 Initiative because she was told at two maternity hospitals that she would be charged childbirth costs because she did not have registered residence in the place where she gave birth (but still had registered residence in Kosovo) and did not have a health booklet. In addition, during the period preceding this event, she resided in Montenegro. Therefore, at the maternity hospital where she gave birth, she was asked to provide a certificate that Montenegrin health insurance would cover childbirth costs or proof that her health booklet was validated in Montenegro, which she could not provide. Finally, with the help of a social worker, B. was discharged from the hospital with her newborn without paying childbirth costs.

280 The most recent such case, involving a pregnant woman without identification documents or health insurance, was recorded during a visit to the Peščara settlement in Subotica on 30 October 2023. The A 11 Initiative informed the woman, as it has in similar cases, that the costs of childbirth should not be charged to her. Additionally, the A 11 Initiative provided her with a list of relevant legal provisions and copies of documents essential for exercising the right to health care in connection with childbirth. During the visit to Subotica in October 2023, the local Roma coordinator stated that there had previously been cases in which childbirth-related costs were charged. As a result, he had written to the healthcare institution to point out that childbirth constitutes a medical emergency and to emphasize the importance of exempting uninsured women from paying delivery-related expenses in such cases.

who do not have access to emergency medical assistance in another way (which undoubtedly includes undocumented pregnant women). Furthermore, the Republic Health Insurance Fund has emphasized that every childbirth, even a scheduled one, is considered an emergency case.[281]

Health Mediators

A noteworthy achievement in the advancement of Roma health, with a special focus on children and women, is the incorporation of healthcare mediators into the healthcare system in 2009. Healthcare mediators are tasked with engaging in direct interventions within Roma settlements—assisting in accessing healthcare services, providing information on prevention, and similar activities to bridge the gap between Roma individuals and healthcare institutions. According to the latest available data, they operate in 70 local government units. However, their employment status remains unresolved, and healthcare mediators still face difficulties in exercising their labor rights. In addition to their positions not being systematized, their engagement is regulated by service contracts, depriving them of rights they would have if they were regularly employed, such as annual leave, sick leave, transportation costs, per diems, and so on. This issue occasionally leads to absurd situations where some healthcare mediators, who have helped many Roma obtain health insurance, face difficulties accessing health insurance themselves. Moreover, healthcare mediators work for a compensation of 22,000 dinars (less than 190 euros), which is less than half the prescribed minimum gross salary in the Republic of Serbia.

To provide more substantial support to Roma in exercising their right to health, **it is necessary to increase the number of healthcare mediators, raise their salaries, and regulate their employment status** (which currently does not involve formal employment but precarious

281 Republic Health Insurance Fund, Instruction 02/5 number 54-684/10-1 dated 16 March 2010.

service contracts). This measure would conclusively deal with the issue of formalizing their positions within the healthcare system. The importance of this issue is highlighted by the Strategy for the Social Inclusion of Roma in the Republic of Serbia for the period 2022–2030,[282] as well as the Commissioner for the Protection of Equality,[283] but year after year, various recommendations for formalizing the employment status of health mediators are reiterated without yielding any results.

Access to Healthcare After Changing Place of Residence

The A 11 Initiative continues to encounter cases in which local branches of the Republic Health Insurance Fund (RHIF) require insured persons to deregister their mandatory social insurance at the branch where they were previously registered when submitting a new health insurance application. This practice presents a significant challenge for individuals who have relocated and changed their place of residence and cannot travel to their previous place of residence —most often due to the cost of travel or health-related reasons. As early as 2018, the A 11 Initiative raised this issue with the Republic Health Insurance Fund, requesting that the procedure for cases involving a change of residence be simplified and that instructions be issued to the RHIF branches on how to handle residence changes to avoid unnecessary costs, loss of time, and other difficulties for citizens. In its response, the RHIF stated that its approach is to require only the submission of a new mandatory health insurance registration following a change of residence, rather than requiring prior deregistration from the previous insurance. It also emphasized that all branches had been informed of this procedure, and therefore there was no need for

282 Strategy for Social Inclusion of Roma in the Republic of Serbia for the period 2022-2030.
283 Commissioner for the Protection of Equality, Regular Annual Report of the Commissioner for the Protection of Equality for the year 2023, available at: https://ravnopravnost.gov.rs/wp-content/uploads/2024/03/RGI-2023.pdf.

the RHIF Directorate to issue a special instruction.[284] Nevertheless, the A 11 Initiative continues to receive reports from individuals who, after changing their residence and attempting to exercise their health insurance rights in their new location, are instructed by the competent RHIF branches to first deregister from their previous health insurance registration. This indicates that certain branches still fail to comply with the prescribed procedures in cases involving a change of residence and remain unaware that deregistration is not required.

The case of the Savić family illustrates not only that some branches continue to request deregistration, but also the severe practical consequences this causes. Following a tragic event resulting in the death of a family member, the family relocated to Belgrade and registered their new address. The mother and the older child had previously held health insurance cards, which they subsequently lost, while the youngest child had never been registered for health insurance. When the family attempted to register for health insurance in Belgrade, they were informed that the mother and the older child first needed to deregister at the RHIF branch in the city they had left. The family's inability to return to their previous city, attributed to the mother's role as a single parent with two young children, financial restrictions, and the lack of appropriate childcare options, resulted in a prolonged absence of healthcare services for over a year. One of the children, a baby, received no vaccinations other than the one administered at the maternity hospital. The other child, who was in the first grade at the time the family contacted the A 11 Initiative, had no access to appropriate health services and could not even obtain a medical certificate when ill, as no primary care physician had been assigned.

The absence of a completed registration at the relevant local branch, should not impede the individual from obtaining medical services, as decreed in 2011 by the Rulebook on the Method and Procedure for Exercising Rights from Mandatory Health Insurance (hereinafter RM-

284 Republic Health Insurance Fund, document 02/4 no. 180/1391/18-3 dated 3 October 2018.

PERMHI)[285], which, in Articles 17 and 47, prescribes that the insured person is entitled to primary, secondary, and tertiary healthcare even *outside the area of their home branch* based on a validated health booklet. Article 47 of the RMPERMHI states that an insured person temporarily residing outside their place of permanent residence receives primary healthcare services in the place of temporary residence without having to change their chosen doctor. This healthcare includes diagnosis and treatment, prescription of medication, and monthly prescribed medical aids. Such healthcare is provided based on a validated insurance document, and the insured person can receive prescribed medication and medical aids based on a personal statement that their chosen doctor did not prescribe medication or aids for the same period.

This practice often leaves citizens without healthcare because most are unaware that they are not required to travel to their previous place of residence for insurance deregistration, and often such travel is not feasible due to their health condition, family circumstances, or high travel costs. This issue primarily affects economically disadvantaged citizens, internally displaced persons, and Roma, deepening inequalities in healthcare access. Consequently, the application of regulations and public policies that are not tailored to the needs of the most vulnerable citizens primarily impacts – precisely them.

Health Insurance for Persons Owning Agricultural Land

In 2024, several individuals contacted the A 11 Initiative because they were unable to register for health insurance due to ownership of agricultural land. Among them was a man who owns approximately half a hectare of land, is registered with the National Employment Service, and is 57 years old. The land he owns is not cultivated and does not

285 "Official Gazette of the RS", Nos. 10/2010, 18/2010 – correction., 46/2010, 52/2010 – correction, 80/2010, 60/2011 – Constitutional Court decision, 1/2013, 108/2017, 82/2019 – other regulation, 31/2021 – other regulation and 4/2024 – other regulation.

generate any actual income. However, because a cadastral income of RSD 185 has been assigned to him, he is not eligible to register for health insurance unless he pays health insurance contributions, which he cannot afford as a person without any income. The competent branch of the Republic Health Insurance Fund informed him that he could register for health insurance if he paid RSD 40,000 in contributions—an amount he is completely unable to afford.[286] In his case, the obligation to pay health insurance contributions effectively meant an inability to register for health insurance.

Access to Safe Drinking Water

The Committee on Economic, Social and Cultural Rights interprets the right to health not merely as the right to timely and appropriate healthcare, but also as encompassing the underlying determinants of health—such as access to safe drinking water, adequate sanitation, the availability of safe food, the right to housing, safe and healthy working conditions, and a healthy living environment. Access to safe drinking water is an essential component of the human rights to life and health.[287]

The most recent data from the Institute of Public Health on water quality, published in 2024, pertain to the year 2023, during which 2,878 public water supply systems and water facilities across 25 dis-

286 The Tax Administration has calculated the mandatory social security contributions for farmers for 2024. Based on the Law on Contributions for Mandatory Social Insurance and the amount of the minimum monthly contribution base for farmers in 2024—set at RSD 40,143.00 (per insured person)—the monthly contribution base has been determined in the amount of RSD 40,143, and the annual contribution base in the amount of RSD 481,716.00. See, for example, Podunavlje Info, "*Announced Contribution Amounts for Pension and Health Insurance for Farmers*," 16 April 2024, available at: https://www.podunavlje.info/dir/2024/04/16/objavljeni-iznosi-doprinosa-za-pio-i-zdravstveno-za-poljoprivrednike/, as well as Agrosmart, "*Annual Pension and Health Contributions for Farmers RSD 165,228*," 16 April 2024, available at: https://agrosmart.net/2024/04/16/godisnji-pio-i-doprinosi-za-zdravstveno-za-poljoprivrednike-165-228-dinara/.

287 Aleksandar Stevanović, "*The Right to Water: Water and Public Health*," in Aleksandar Stevanović et al., *Alleged Right: The Right to Water in the Republic of Serbia – Analysis and Recommendations*, Polekol, Belgrade, p. 31.

tricts in Serbia were monitored.[288] Of the 96,112 samples tested, 18.3% were found to be physically and chemically non-compliant. Among 98,323 samples, 6.4% were microbiologically non-compliant. Of the 156 public water supply systems in urban areas, 10.9% exhibited both physical-chemical and microbiological non-compliance.

Subotica[289] has been identified as one of the 20 municipalities with the most unsafe drinking water, according to the *Report on the Health Safety of Drinking Water from Public Water Supply Systems and Water Facilities in the Republic of Serbia for the Year 2022*,[290] prepared by the Institute of Public Health "Dr Milan Jovanović Batut." According to the report, water from the public supply in this city falls within the 12.8% of systems classified as having "combined non-compliance."[291] Additionally, water in the urban area of Subotica is further problematic because it contains arsenic. In a general sense, Subotica is facing a considerable challenge related to its water supply, largely attributable to the lack of systematic planning and timely responses to the prevailing geographical and natural disadvantages. The natural water sources in Subotica are of very poor quality, and the water purification process through the water supply network has not reached a level that would provide the broader population of this city with healthy and safe drinking water.

288 Institute of Public Health, Health Statistical Yearbook of the Republic of Serbia 2023, 2024, available at: https://www.batut.org.rs/download/publikacije/pub2023v4.pdf, p. 84.

289 In this section of the report, the A 11 Initiative seeks to highlight the issues related to access to safe drinking water, which some of the most vulnerable groups have pointed out during fieldwork. For general information on the right to water for citizens of Serbia, see the reports of the Center for Politics of Emancipation. For information on the problems related to access to drinking water faced by the residents of Zrenjanin for the past 20 years, see, for example, Vreme, "*Zrenjanin Marks Exactly 20 Years Without Drinking Water: Everyone Is Complicit*," 20 January 2024, available at: https://vreme.com/drustvo/zrenjanin-tacno-20-godina-bez-pijuce-vode-svi-su-saucesnici/#:~:text=Dvadesetog%20januara%202004.,%2C%20aktivista%2C%20pokreta%C4%8D%20Novog%20optimizma.

290 The report available at: https://www.batut.org.rs/download/izvestaji/Zdravstvena%20ispravnost%20vode%20za%20pice%202022.old

291 The term "aggregate" non-compliance refers to public water systems that exhibit physicochemical non-compliance in over 20% of the samples tested annually, along with microbiological non-compliance in over 5% of the samples. Physicochemical non-compliant water is that with increased turbidity and elevated concentrations of iron, manganese, ammonia, nitrates, and nitrites, while microbiological non-compliance includes water with increased counts of various bacteria, including those of fecal origin. Both types of non-compliance can cause serious health problems – the former due to toxic and carcinogenic substances and the latter due to the potential to cause waterborne epidemics.

However, not all residents of Subotica enjoy the "luxury" of reducing the concentration of all the harmful substances mentioned above to acceptable limits through the water purification in public water systems. The locality of "Zorka" in Subotica remains unconnected to the water supply network, despite its proximity to the city center, a mere four kilometers away. During regular filed visits, the A 11 Initiative mobile team learned that individuals belonging to the Roma community residing in Ferenc Bodrogvarija and 10. Nova Streets do not utilize the services provided by the Public Utility Company "Water Supply and Sewerage" Subotica. Excluded from the water supply network, the residents of this neighborhood overcome this problem by using private wells that pump water directly from the ground. This water is considered technical as it contains all the contaminants outlined in the initial section, present in significantly higher levels since it has not undergone any treatment in the municipal water supply system. Besides all these shortcomings, this water also has a high sand content due to the sandy terrain in which the "Zorka" neighborhood is located. Often, this water must be boiled to be used for hygiene or cooking. When it comes to drinking water, the extreme poverty characterizing the socioeconomic status of these people creates a completely new dimension. Other residents of this neighborhood (those who are not materially deprived) have the option to overcome the lack of drinking water by purchasing bottled water, which is often not an option for residents of these two streets. Thus, the material deprivation of these people generates dangerous health risks as they primarily use technical water for drinking. The responsible local authorities are allegedly aware of this problem but state that it is not a case of discrimination in this specific instance because this problem is characteristic of many residents, including those of Roma nationality. Adopting the view that all individuals are equally affected by deficiencies overlooks the causal relationships through which a single issue may give rise to one, two, or multiple adverse consequences, depending on the life circumstances it encounters. One such circumstance is poverty, which, in this particular case, results in a large number of people consuming water with hazardous concentrations of ammonia, arsenic, and bacteria. The installation of a public foun-

tain or a water tank with drinking water are measures that could be implemented promptly and at relatively low cost. However, as of the conclusion of this report, the competent authorities have shown no willingness to undertake such actions.

Health Status as a Condition for Admission to Social Protection Institutions

The Law on the Rights of Users of Temporary Accommodation Services in Social Protection, adopted in 2021[292] stipulates that that residents have the right to access to and provision of healthcare and prohibits discrimination against them on the basis of their health status, including mental disability and mental disorders.

However, in practice, persons experiencing homelessness who have mental health conditions face significant barriers, if not outright denial, in accessing the Shelter for Adults and the Elderly in Belgrade. Throughout both 2022 and 2023, the Shelter remained inaccessible to individuals with such health conditions. While the general admission procedures at the shelter already pose challenges for persons with chronic illnesses, developmental disorders, or disabilities, individuals discharged from the Clinic for Psychiatric Diseases "Dr Laza Lazarević" face particularly severe difficulties. Since the Shelter lacks both adequate space and qualified staff to provide medical supervision of individuals recently discharged from the Clinic[293], these persons are subjected to especially discriminatory treatment. As a result, they are left to fend for themselves—forced to live on the streets without any support, despite their already compromised

292 "Official Gazette of the RS", no.126/2021.
293 Notification sent by the City Center for Social Work to Department Heads No. 550-422 dated 29 September 2022.

health. In addition to the standard admission requirements, which include a referral from the competent department of the center for social work and a psychiatric or neuropsychiatric evaluation confirming the absence of contraindications for placement in a collective setting,[294] it is particularly concerning that the Shelter continued to apply the same operating regime long after the official end of the COVID-19 pandemic, without any reasonable justification.[295]

In response to the treatment of persons experiencing homelessness, particularly those with psychiatric conditions, the A 11 Initiative, together with the associations ADRA and PIN, submitted a complaint to the Commissioner for the Protection of Equality on 5 August 2023, alleging discrimination on grounds of health status. In her opinion issued at the end of 2023, the Commissioner concluded that no discrimination had occurred. Nevertheless, she recommended that the Director of the Shelter readdress the Belgrade City Institute for Public Health and the City Secretariat for Social Protection, requesting that the existing measures be eased, particularly those related to mandatory PCR testing and the requirement to isolate users upon

294 Article 4 of the Rulebook on Admission, Service Provision, and Discharge of Users of the "Shelter for Adults and the Elderly" dated 15 March 2019, and Article 3 of the Rulebook on the Amendments to the Rulebook on Admission, Service Provision, and Discharge of Users of the "Shelter for Adults and the Elderly" dated 12 March 2020.

295 The operating regime of the Shelter that was in place until early 2024 required individuals seeking admission to present proof of a negative PCR test not older than 72 hours. During their stay, users were subject to a specific type of isolation, as they were generally not permitted to leave the facility except in rare cases, such as attending specialist medical examinations.

returning to the Shelter premises[296] In April 2024, the Shelter finally abolished the requirements for a negative antigen test and isolation. The Network for the Fight Against Homelessness emphasized that it is deeply troubling that it took a full four years to achieve an outcome that restores users' freedom of movement and enables access to accommodation without the burden of outdated and unjustified COVID-related restrictions.

Individuals discharged from the "Dr Laza Lazarević" clinic, as well as others experiencing mental health challenges, continue to face a lack of access to shelter services, despite extensive evidence indicating a strong causal relationship between homelessness and mental health issues. According to data from the Statistical Office of the Republic of Serbia, as many as 44% of primary homeless individuals suffer from mental health conditions,[297] which are often both a cause and a consequence of homelessness. Due to the absence of adequate accommodation and support systems, people experiencing homelessness are exposed to a heightened risk of numerous traumatic experiences that further undermine their mental health.[298]

The requirement to present psychiatric and neuropsychiatric assess-

296 The imposition and enforcement of this measure were carried out under the directive of the competent social protection inspector, with the consent of the epidemiologist from the City Institute for Public Health. In Opinion No. 07-00-398/2023-02 dated 28 December 2023, the Commissioner for the Protection of Equality, in response to allegations contained in a complaint that the Shelter was refusing admission to individuals receiving treatment at the "Dr Laza Lazarević" clinic, established that the Shelter did not a priori reject users who had been or were undergoing treatment at the clinic. Regarding claims that admission was conditioned on the submission of psychiatric or neuropsychiatric reports, the Commissioner noted that the A11 Initiative had already raised this issue in 2021. At that time, the Commissioner concluded that the application of this rule did not violate the rights of socially vulnerable and marginalized groups and was not discriminatory. Concerning the Shelter's acts that mandated COVID-19 preventive measures—including the possession of a negative PCR test not older than 72 hours for new users and those returning from non-COVID medical institutions, as well as mandatory isolation—the Commissioner found that such provisions indirectly limited, or at least complicated, the exercise of the right to freedom of movement of Shelter users. Shortly after issuing this opinion and recommendation to the Shelter's director, the Commissioner addressed recommendations to the City Institute for Public Health and the City Secretariat for Social Protection, urging them to take all necessary measures within their authority to align the Shelter's preventive procedures with the latest guidelines issued by the Ministry of Labor, Employment, Veteran and Social Affairs.

297 Statistical Office of the Republic of Serbia, 2011 Census of Population, Households and Dwellings in the Republic of Serbia – Homeless Individuals.

298 See: Jadranović, K. (2022). *Mental Health of Persons Experiencing Homelessness: Analysis of Public Policies and Individual Needs*. Belgrade: PIN – Psychosocial Innovation Network.

ments confirming an individual's suitability for collective accommodation, as well as COVID-19-related measures, is not necessarily standard practice, as illustrated by the Shelter in Novi Sad, where neither such documentation nor PCR testing were required for admission.

Additionally, individuals experiencing homelessness often cite the lack of access to adequate healthcare services at the Shelter for Adults and the Elderly as a reason for their reluctance to seek temporary accommodation there. Only primary healthcare services, i.e., general practitioners, are available to shelter users. Furthermore, they highlight inadequate post-operative care provided by the shelter as an example of the aforementioned deficiencies.

The beginning of 2025 was marked by announcements regarding the temporary closure and demolition of the Shelter, to allow for the construction of a new facility with increased capacity. However, no information was provided concerning where current or potential users would be accommodated during the interim period.[299]

Amendments to the Law on the Protection of Persons with Mental Disabilities

Due to the mass shooting that occurred in May 2023 at the "Vladislav Ribnikar" Experimental Primary School in Belgrade, the Ministry of Health began the process of drafting amendments to the Law on the Protection of Persons with Mental Disabilities[300] to address mental health challenges and prevent such tragedies from ever happening again. In furtherance of this initiative, and subsequent to the determination that reducing the age of criminal accountability was not viable,

299 Network to Combat Homelessness, Statement of the Network to Combat Homelessness Regarding the News Concerning the Sole Shelter for Adults and Elderly Persons in Belgrade, 20 March 2025, available at: https://www.a11initiative.org/saopstenje-mreze-za-borbu-protiv-beskucnistva-povodom-vesti-u-vezi-s-jedinim-prihvatilistem-za-odrasla-i-stara-lica-u-beogradu/.
300 "Official Gazette of the RS", No. 45/2013.

the Ministry of Health established a Task Force to draft Amendments to the Law on the Protection of Persons with Mental Disabilities. Upon completion of this process, the line ministry informed the public on July 27, 2023, that the public discussion on the proposed legal solutions would extend until August 09, 2023. Although the public discussion was extremely short and conducted during the holiday season, a more pressing concern lies in the fact that the suggested remedies stray from safeguarding the rights of individuals with mental disabilities, especially the protection of children with mental disabilities.

This law sets out the criteria for the mandatory placement of juveniles in a segregated unit of a mental health facility when, due to their minority status, they are not criminally liable but have committed an offense punishable by a minimum prison sentence of ten years. The draft law provides that the decision on compulsory confinement of juveniles is issued without a defined duration, while requiring the court to review the justification for continued detention and treatment every six months. This approach is more stringent than the legal framework applicable to adults with mental disabilities, who are subject to time-limited involuntary detention orders ranging from one to six months. The regime for juveniles lacks a reasonable medical or legal basis or justification.

The regime established by this draft amendment includes repressive elements, such as the power to temporarily restrict social interactions for security reasons—without any legally defined limits on the duration of such "temporary" prohibitions. As a result, a child placed in a closed psychiatric institution with special security measures may be denied the opportunity to communicate with close family members.

Given that such changes to the existing regime concerning the protection of persons with mental disabilities could violate constitutionally guaranteed rights, as well as rights guaranteed by the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, civil associations

proposed extending the duration of the public debate and engaging a wider range of experts from different fields to thoroughly examine all aspects of this suggested system.[301]

Given that the public debate duration remained unaltered, the organizations behind this statement also reached out to the UN Special Rapporteur on the Right to Health, who, after receiving a written communication highlighting the contentious aspects of this draft law, addressed the Government of the Republic of Serbia with a series of questions regarding how Serbia would fulfill its obligations under several international treaties it has signed and ratified, following the adoption of the Amendments to the Law on the Protection of Persons with Mental Disabilities.[302] Although the Government of the Republic of Serbia responded to the written communication sent by the Special Rapporteur on the Right to Health, the draft law was not withdrawn, and there is no new information regarding the potential launch of a broader public debate on the matter or efforts to align the proposed regime with human rights guarantees.

Zdravitas Platform

In September 2024, the Ministry of Education of the Republic of Serbia introduced the "Zdravitas" project, an information system designed to monitor the motor development of students in primary and secondary schools. According to the Ministry, this system was intended to facilitate the collection of data on students' physical fitness, including parameters such as height, weight, body mass, and the results of physical activity tests. The stated objectives of implementing the "Zdravitas" system were to monitor students' physical health and to enhance educational practices. However, both the announce-

301 Platform for Cooperation with UN Human Rights Mechanisms, Statement: Draft Amendments to the Law on the Protection of Persons with Mental Disabilities Dehumanize Children in Psychiatric Institutions, 11 August 2023: https://platforma.org.rs/saopstenje-nacrt-izmena-zakona-o-zastiti-lica-sa-mentalnim-smetnjama-dehumanizuje-decu-u-psihijatrijskim-ustanovama-2/.
302 UN Special Rapporteur on the Right to the Highest Attainable Standard of Physical and Mental Health, OL SRB 3/2023, 26 December 2023

ment and the manner in which the system was introduced—through a brief notification accompanied by access codes for teachers, without further explanation or opportunity for dialogue—provoked strong reactions from parents, teachers, and trade unions. Trade unions voiced dissatisfaction with the imposition of additional responsibilities on teachers without prior consultation or adequate training.[303] Parents, on the other hand, raised concerns regarding the collection of personal data, including the unique personal identification number (JMBG) of both students and parents. These concerns centered on privacy protection, particularly regarding who would have access to the data and how it would be used.[304] A primary criticism shared by all stakeholders focused on the lack of transparency and communication—specifically, the absence of clear information about the purpose of data collection and how the collected data would be handled. This lack of clarity generated widespread uncertainty among both parents and teachers. Initially, the Ministry requested parental consent for data collection. However, when parents began to withhold consent, the Ministry decided to proceed with data processing regardless of parental approval. As a result, parents were effectively denied the ability to refuse consent for the collection of data concerning their children. Consent was reduced to determining whether parents themselves would have access to the data—data that would be collected in all cases, regardless of their decision.[305] Notably, despite the involvement of a sensitive social group and the handling of sensitive personal data, no impact or risk assessment was conducted, nor was there any broader public discussion involving representatives of teaching staff and parents. In response to widespread opposition to the introduction of "Zdravitas," including petitions and demands to prohibit the processing of children's data, the Ministry of Education ultimately decided to postpone the launch of the platform's user in-

303 https://www.danas.rs/vesti/drustvo/sindikati-prosvetnih-radnika-traze-hitan-sastanak-sa-ministarkom-prosvete-o-zdravitasu/?utm_source=chatgpt.com.
304 *"Student Data Online – What Is 'Zdravitas' and Why Are Parents, Lawyers, and Teachers in Niš Opposed?"*, 21 October 2024, available at: https://www.juznevesti.com/drustvo/podaci-o-djacima-onlajn-sta-je-zdravitas-i-zasto-su-niski-roditelji-pravnici-i-prosvetari-protiv/?utm_source=chatgpt.com.
305 Ministry of Education, Act No. 610-00-970/2/2024-07, dated 8 November 2024.

terface following the initial rollout announcements.[306]

Although the objective of the "Zdravitas" project was to enhance the monitoring of students' physical health, its attempted implementation encountered serious challenges, particularly concerning data privacy protection, transparency, and communication with all relevant stakeholders. These controversies led to delays in the system's deployment and fostered mistrust among both trade unions and parents. The role of the Commissioner for the Protection of Information of Public Importance and Personal Data is also noteworthy. Rather than acting as a supervisory body tasked with investigating serious allegations of rights violations, the Commissioner issued a statement following an extraordinary inspection[307] asserting, *inter alia*, that consent was not required for the data processing in question. However, the inspection report was not published on the official website, nor was any broader justification for this position made publicly available.

A comparison between the "Zdravitas" case and the introduction of the Social Card Registry reveals a similar pattern. While the Social Card system was presented as a tool to improve transparency and efficiency, in practice it led to the exclusion of numerous beneficiaries from the social protection system and involved excessive data processing.

The "Zdravitas" platform displays comparable deficiencies. Although promoted as an innovation intended to advance the education system, it failed to meet basic standards of transparency and stakeholder consultation—including with parents, teachers, pediatricians, legal professionals, and data protection experts. A frequently raised concern underscores the disparity between substantial public spending

306 "*Launch of the Zdravitas Portal Postponed*", 29 November 2024, available at: https://www.021.rs/story/Info/Srbija/394553/Odlaze-se-pokretanje-portala-Zdravitas.html?utm_source=chatgpt.com.

307 Commissioner for Information of Public Importance and Personal Data Protection, Statement of the Commissioner: "Zdravitas", 28 October 2024, available at: https://www.poverenik.rs/sr-yu/saopstenja/4275-%D1%81%D0%B0%D0%BE%D0%BF%D1%88%D1%82%D0%B5%D1%9A%D0%B5-%D0%B7%D0%B4%D1%80%D0%B0%D0%B2%D0%B8%D1%82%D0%B0%D1%81.html.

on software development and the poor physical conditions in schools. This raises the question of priorities: is it justifiable to invest in digitalization when school roofs are leaking or restrooms remain in disrepair? The establishment of the "Zdravitas" system cost taxpayers 35 million dinars excluding VAT (42 million dinars including VAT).[308]

It is also important to emphasize that, rather than protecting rights, such projects are often used to "experiment" on vulnerable groups or to introduce invasive technologies without robust data protection safeguards. In these instances, fundamental human rights—such as the right to privacy and the right to access information—are frequently overlooked. These examples highlight the need for every technological project to be assessed through the lens of citizens' rights, rather than solely in terms of administrative efficiency.

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Conclusion

It is essential for institutions to understand the right to health within the framework of their obligations under international instruments such as the International Covenant on Economic, Social and Cultural Rights, the Constitution of the Republic of Serbia, and relevant sectoral laws. This is particularly important in relation to multiply marginalized and discriminated groups—including undocumented individuals (particularly pregnant women), Roma, homeless individuals, people in social protection institutions, and citizens of low socioeconomic status—whose specific challenges are addressed in this report.

To improve the quality and coverage of healthcare services, greater investment in the healthcare system and its human resources is necessary, especially given that Serbia continues to lag behind other Central and Eastern European countries in this regard.

308 Nova ekonomija, *Controversial "Zdravitas" Platform Cost Taxpayers 350,000 Euros*, 8 October 2024, available at: https://novaekonomija.rs/vesti-iz-zemlje/kontroverzna-platforma-zdravitas-poreske-obveznike-kostala-350-000-evra.

A good example of bringing institutions closer to the most vulnerable citizens is the system of health mediators, which enables direct engagement with marginalized communities. However, it is also necessary to systematically regulate the employment status of health mediators and to increase the number of professionals working in this role.

In addition to the necessary increase in healthcare funding, it is evident that many effective legal measures remain unimplemented due to inconsistencies in legislation and poor coordination among healthcare institutions. It is crucial to eliminate these obstacles in order to prevent unlawful practices, such as attempting to charge pregnant women without personal identification documents for childbirth, or denying individuals access to healthcare services based on the illegal requirement to deregister from health insurance in their previous place of residence.

Furthermore, considering that mandatory screening for three types of cancer has resumed following the disruption caused by the pandemic, it is essential to abolish the unfair and overly harsh penalties for failing to attend screening appointments. Denying access to healthcare in such cases can lead to severe consequences for patients with serious illnesses, whose health would be significantly compromised—or whose lives could be lost—without timely medical care. It is important to recall that the right to life entails, at a minimum, the obligation of states to ensure access to available healthcare services if the lack of such access would expose an individual to a life-threatening risk.

Above all, reducing health disparities and ensuring access to healthcare, particularly for vulnerable groups, requires comprehensive coverage through mandatory health insurance. To that end, the Law on the Exercise of the Right to Healthcare for Children, Pregnant and Puerperal Women must be amended to explicitly guarantee access to both primary and specialized healthcare for every child, pregnant woman, and new mother, including those without documentation.

Such a step would bring the country closer to fulfilling the recommendations issued by the Committee on the Rights of the Child in 2017, and later by the Committee on Economic, Social and Cultural Rights in 2022.