

STATEMENT
UPR Pre-session on Serbia
Geneva, 5 April 2023
Delivered by A 11 – Initiative for Economic and Social Rights

I Introduction

This statement is delivered on behalf of the A 11 – Initiative for Economic and Social Rights, a non-profit, independent, non-partisan organization that promotes and protects the human rights of individuals from marginalized and discriminated groups in Serbia, with particular focus on economic and social rights. Established in 2018, the A 11 Initiative has written over 13 submissions to different UN treaty and charter-based bodies and has participated in the mid-UPR process in 2020 together with the Platform of Organizations for Cooperation with the UN Human Rights Mechanisms. Since June 2020, the A 11 Initiative holds special consultative status with the ECOSOC.

II) Plan of the Statement

This statement addresses following issues: (1) the denial of parental and child allowance to Roma children; (2) the human rights concerns raised by the automated decision-making processes introduced through the social cards system; (3) ratification of the Optional Protocol to the International Covenant on Economic and Social rights.

III) Statement

Issue 1 – The denial of parental and child allowance to Roma children

A. Follow-up to the previous UPR of Serbia

During Serbia third cycle UPR, multiple general recommendations were made with respect to the position of Roma and their access to rights, from Germany, Finland, Afghanistan, Italy and Mozambique. France urged Serbia to continue efforts to promote the human rights of persons belonging to minorities, especially the Roma minority, while Albania recommended further measures to overcome prevailing discrimination of Roma in the enjoyment of economic and social rights.

B. New developments since the previous review

Conditions for access to parental and children allowance discriminate against Roma children and run counter these recommendations. Article 25 of the Law on Financial Support for Families with Children hinders access to the parental allowance for Roma by conditioning it with regular (pre)school attendance and complete and timely vaccination. If at least one child in a family does not regularly attend a school or has not been properly vaccinated, parental allowance is denied to all children from that family. Although, on the face of it, conditions regarding immunization and (pre)school attendance are neutral, data on immunization coverage and (pre)school attendance suggest that these conditions disproportionately affect Roma children. Also, families are eligible to receive parental and child allowance for up to 4 children, which disproportionately affects the most vulnerable Roma. Although Roma make up 2.05% of the population, their share in families with 5 or more children is 32.66%. In March 2022, the CESCR expressed its concerns about certain conditions attached to social assistance benefits, which effectively deny access by certain disadvantaged and marginalized groups to social security benefits, particularly the parental allowance.

C. Recommendations

In order to enable effective integration and equal access to social rights for Roma, we urge the reviewing States to make the following recommendations to Serbia:

- I. Review the conditions for benefits aimed at families with children with a view to remove discriminatory conditions for the parental allowance which excludes marginalized Roma children.
- II. Abandon the limitation on the number of children eligible for the children and parental allowance.

Issue 2 – Introduction of automated decision-making processes in the system of social protection the human rights concerns raised by the social cards system

A. New developments since the previous review

In 2022, the Law on Social Cards came into force, with one of the aims to introduce the “automation of procedures and processes related to acting in the field of social protection.” In the first months of its implementation, the Law caused the loss of social benefits for at least 22,000 vulnerable individuals. The Law introduced disproportionate processing of up to 135 personal data of social beneficiaries and persons related to them. It denies social benefits, but also due process – if a system finds that a beneficiary no longer meets the condition for social benefits, the system does not allow him/her to contact a caseworker assigned to their case and explain their situation. This automated decision-making is in contradiction with the Personal Data Protection Law, Art. 9 of ICESCR, the Convention on the Protection of Individuals with Regard to Automatic Processing of Personal Data and the European Convention on Human Rights.

B. Recommendation: Abandon automated decision-making processes in social protection which harms most vulnerable individuals, and revisit criteria for receiving social assistance.

Issue 3 - Ratification of the Optional Protocol to the ICESCR

A. Follow-up of the previous UPR of Serbia

During the third UPR cycle, Costa Rica issued a recommendation to Serbia to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which the State did not accept, nor implemented.

B. New developments since the previous review

During consideration of the third periodic report of Serbia before the CESCR, the State`s delegation indicated a plan for the ratification of the Optional Protocol to the Covenant and received a recommendation from the CESCR to pursue the plans to ratify the Optional Protocol to the Covenant. We welcome announced plans to ratify the Protocol, but further steps are needed in that regard.

C. Recommendation: Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.