

**Report on Compliance
of Legislative and Institutional Framework in the
Republic of Serbia
with the UN Convention on the Rights of Persons
with Disabilities
and Recommendations for Harmonization**

Name of publication

“Report on Compliance of Legislative and Institutional Framework in the Republic of Serbia with the UN Convention on the Rights of Persons with Disabilities and Recommendations for Harmonization”

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Published:

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Printed by:

UNIGRAF d.o.o.

No of copies:

1000

Belgrade, 2014

¹ The list of Team members is included in Annex 1

CIP

Disclaimer

This publication was prepared as part of the project “Establishing the Balkans Independent Disability Framework” and its publishing was financed by the EIDHR programme of the European Commission. Opinions and views presented in this publication are the authors’ views and do not necessarily reflect the position of the European Commission.

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1. INTRODUCTION

The “**Report on Compliance of Legislative and Institutional Framework in the Republic of Serbia with the UN Convention on the Rights of Persons with Disabilities and Recommendations for Harmonization**” was developed as part of the project “Establishing the Balkans Independent Disability Framework” implemented by Agency for Coordination, Education and Development - ACED as a leading agency, with partner organizations in Bosnia and Herzegovina (in both entities), Serbia and Montenegro. The Report was prepared according to the common methodology agreed upon by the partners. The situation in five fields recognized by the organizations of the persons with disabilities in all three countries as the most important for their members was analyzed, namely: ***accessibility, education, health protection, social protection and employment***. Working groups that were formed for each field analyzed the situation in that specific field.²

This report represents an analysis of the harmonization of the legislative and institutional framework and the implementation of the UN Convention on the Rights of the Persons with Disabilities in the fields of accessibility (Article 9), education (Article 24), health protection (Article 25), employment (Article 27) and social protection (Article 28) for the persons with disabilities in the Republic of Serbia, with the recommendations for harmonization of legislative and institutional framework and their application.

National Assembly of the Republic of Serbia ratified the Convention and the related Option Protocol on 29 May 2009. The initial report on

² The list of Team members is included in Annex 1

implementation of the Convention was delivered by Serbia to the Commission for the Rights of the Persons with Disabilities on 20 June 2012.

Summary versions of reports per individual fields are included in the National Report and contain a detailed analysis of regulations and their application in practice. For those who are interested in more details in specific fields, the Center will consider a possibility of publishing more extensive versions as special reports per specific fields.

Representatives of over 50 organizations of persons with disabilities in Serbia took part in designing the report, through working meetings, focus groups and sending comments. We would like to thank them all for that.

2. CONTEXT

According to the estimates of the Republic's Institute of Statistics, the population of Serbia is 7.241.295.³ The Republic's Institute of Statistics states, according to the data of the census carried out in the territory of the Republic of Serbia without the territories of AP Kosovo i Metohija, there are 571.780 persons with disabilities in Serbia, or 8% of the population.⁴ This data are obviously not in conformity with the WHO and Eurostat statistics as there were some mistakes in formulating the questions and training of poll-takers as to how to ask these optional questions, while 119.482 persons did not want to answer these questions at all. The number of persons with disabilities in Serbia is certainly bigger.

According to the data of the Institute of Statistics of 29 March 2013, GDP in Serbia in 2011 amounted to „3.208.620,2 mil. RSD“⁵. GDP per inhabitant in dollars, *according to the purchasing power of domestic currency (PPP)* was⁶: in 2010, 10.120 \$; in 2011, 10.409 \$; in 2012, 10.528 \$ (respectively).

Situation in the field of accessibility

There are unfortunately no data on a part of GDP apportioned for accessibility in Serbia. Partial indications on the investment in accessibility may be derived from the data on the projects financed by the Ministries responsible for the social policy, culture and information fields.

³ Website of the The Republic of Serbia Institute of Statistics webzrs.stat.gov.rs data of 23 March 2013.

⁴ DISABILITY: Data per towns and municipalities, the Republic's Institute of Statistics, Belgrade 2013.

⁵ Website of the Republic of Serbia Institute of Statistics <http://webzrs.stat.gov.rs>

⁶ IMF data, according to the citations from the Journal "Makroekonomija", of 12 February 2013.

Situation in the field of education

The information on the number of the enrolled children with disabilities of preschool, elementary school and secondary school age as well as on the number of persons with disabilities attending elementary schools for adults is not available, because the database of the Ministry of Education, Science and Technological Development is currently being designed⁷. According to the Republic's Statistics Institute (hereafter: RZS) data, as stated in the Strategy of development of education by 2020, in the school year 2009/2010, only about 4.000 children with disabilities were included in preschool education. There is no reliable data as to the /degree/ (percentage) of the children with disabilities finishing elementary school. The Institute of promotion of education and upbringing has the data only on the children who are in the system, and not on those who remained outside the system. There is no reliable data on the number of children with disabilities attending SQUOV. According to the findings of research of the found situation in the framework of TEMPUS project EQUIED⁸ from 2011, and based on the database of RSZ, in the school year 2010/11, of total 228.531 students there were 1.197 students with disabilities, which is 0,5 % of student population.

At the UNICEF meeting held in New York on 06 February 2013, in his presentation on inclusive education, the education minister stated that since the adoption of the Law on the Basis of the Education and Upbringing System in 2009 about 15.000 teachers were trained to date, i.e. one fifth of the teaching staff, while one third of the elementary schools in Serbia increased enrollment of the children with developmental disabilities/ in 2010⁹. There is no available data on the number or structure of persons with disabilities employed in the education system.¹⁰

⁷ <http://www.equied.ni.ac.rs/dokumenti/viewcategory/4-publikacije.html> (Downloaded docuemnt Study of the Found Situation, p. 34)

⁸ V. Ibid pp. 34-38 and 41

⁹ izvor: http://www.prosvetni-pregled.rs/list_detalji.php?id=848.

¹⁰ At enrollemnt, at all teachers' and educators' faculties/colleges of vocational studies, the candidates take the exams of affinities and abilities – physical, music, and oratory, which are of eliminatory character. This formulation is quite uniform in all Statutes. The Statute of the School of Pedagogy in Sombor states in its Article 73 („Protection of Persons with Disabilities – harmonized with UNS Statute), that the „persons with disabiities“ may enroll in the study programmes in which checking of abilities and affinities are not placed as a condition, which includes the study program „Teacher' and „Trainer“. In fewer Statutes it is explicitly stated that the necessary documentation includes doctor's certificate and speech therapist's

Situation in the field of health protection

Allocation of funds for the health protection in 2013 amounted to \$546 per capita, which is 1.875% of total GDP. There is no available data as to allocation for the health protection of persons with disabilities.

Free medical assistance is available to anyone *who is need of it*. However, in order to use any other form of health protection free of charge, i.e. with payment of the participation fee, a person should have medical insurance with the Republic Institute of Health Insurance (RFZO), i.e. he/she must be employed on a permanent basis, must perform independent /or agricultural activity, must be a pensioner, unemployed in the records of the National Employment Service, or have a decision entitling him/her for other person's care and assistance. Property limit was introduced for the first time allowing the persons who are in social need easier access to health insurance rights.

Obligatory health insurance includes insurance in cases of disease and injuries outside the place of work and insurance in case of injury at work or professional disease. Basic rights from health insurance include the right to health protection, right to wages during the time of temporary inability of the insured person to work, and the right to be compensated for transport expenses incurred in relation to the use of health protection.

Family members of the insured person (spouses and children up to 26 years of age) are entitled to obligatory health insurance on a condition that the insured person through whom they exercise such rights is eligible for such insurance. Social health insurance is a contract between the client and the insurance according to which, when an event for which we are insured, occurs, a certain sum is reimbursed to the insured person or, most frequently, bears the expenses of the medical provider either fully or partly. Social insurance is obligatory. Anyone in a certain group must be insured and pay a certain amount of money as contribution. RFZO insured persons may receive medical protection in state healthcare institutions.

Situation in the field of employment

In December 2012 there were 20.666 unemployed persons with disabilities on the records of NSZ¹¹, with 67,0% men and 33,0% women. According to

certificate on speech abilities, while in others this is mainly regulated by Rulebooks and decisions.

¹¹ National Employment Service, March 2013.

the age structure, 42.2% of unemployed persons of disabilities are over 50 years of age, 40.8% are of age from 30-50 years and 14,9% are younger than 30¹². The education structure of the persons with disabilities is such that as many as one third of them have finished only 4 grades of elementary school (32.0%), 12,2% finished only the elementary school. 51,5% of persons with disabilities completed the secondary school (III-V degree of professional qualification), and only 4,4% of persons with disabilities completed higher education. The number of adults who do not have any legal capacity and therefore no working capacity in 2011 was 11.025.

Total funds of the Budget Fund for Professional Rehabilitation and Fostering Employment of Persons with Disabilities in 2013 amounted to 16,663,773.55 Euro, chapter 29.7^{13, 14}, which is 0.18% of the Republic of Serbia budget for 2013. For direct incentive measures for employment through NSZ, 6,155,561.59 Euro or 0.06% GDP-a were allocated from this sum

The situation has significantly changed since passing of the Law on Professional Rehabilitation and Employment of the Persons with Disabilities in 2009. A total number of legal entities to which the obligation of employing persons with disabilities related, at the end of 2012 was 5.142, of which 1.968 budgetary beneficiaries and 3.174 others, while the number of employed persons with disabilities during the period May 2009 to December 2011 was 5.290 which is considerably more compared to previous years, when about 200-250 persons were employed on the average on the annual basis¹⁵. The total number of employed persons with disability in 2010 was 10.326¹⁶, while at the end of 2012 there were 11.467 persons with disabilities who were employed¹⁷, which is an 11% increase. This shows that since promulgating the Law on Employment of Persons

¹² National Employment Service, March 2013.

¹³ Law on the Budget of the Republic of Serbia for 2013, 1.894.976.000,00 Dinars

¹⁴ Exchange rate as of 31 December 2012, when 1 Euro was equivalent to 113,7183 Dinars

¹⁵ <http://www.paragraf.rs/strane/aktuelne-vesti/031210-vest11.html>

¹⁶ Initial Report on Implementing the Convention on Rights of the Persons with Disabilities in Serbia, Belegrade, 2012, p. 69:

http://www.ljudskaprava.gov.rs/sites/default/files/u3/konvencije/invaliditetom/inicijalni_izv_estaj_na_srpskom_jeziku_lat.pdf, downloaded in March 2013.

¹⁷ Report on fulfilling the obligation of employing persons with disabilities based on filed IPWD forms, for December 2012.

with Disabilities (hereafter: OSI), employment of persons with disabilities has been continuously increased.

The legal obligation of employment of persons with disabilities in December 2012, according to all modalities, was fulfilled for 17.175 persons. If we compare the total number of employed persons in 2012 and the obligatory number of employed persons with disabilities, according to the law, the obligation of direct employment of OSI in 2012 was fulfilled in 66.8% cases. In 30.7% of cases this obligation was fulfilled by financing the wages of persons with disabilities in a company for professional rehabilitation or in a social company, while 2.2% of employment obligation was fulfilled based on contracts on business and technical cooperation, purchase of products or provision of services with a company for professional rehabilitation and employment of disabled persons. Only 47 employers (0.3%) fulfilled the employment obligation by payment into the OSI Employment Fund. Having in mind that in 2012 there were 1.727.048 employed persons on the average¹⁸, we can conclude that a share of the persons with disabilities in total employed persons in Serbia is 0.6%.

Situation regarding an appropriate standard of living and social protection

Social inclusion of persons with disabilities is at a low level. This is contributed by financial poverty and inaccessible living environment, non-acceptance and prejudices of the community and the lack of interest of local community for their needs. According to the Ministry of Labour, Employment and Social Policy data, 70% of total number of persons with disabilities in Serbia are poor, 13% are employed and more than a half live on different social benefits.

Insufficient number of services in the local community also influences the social inclusion of the persons with disabilities. The system of social protection services for persons with disabilities in Serbia is still mostly institutionalized, with a relatively limited range of services in community and services of support at the local level. The distribution of services is uneven, because the number and quality of services is determined by the

¹⁸ Republic of Serbia, Republic's Statistics Institute:
<http://webbrzs.stat.gov.rs/WebSite/Public/ReportResultView.aspx?rptKey=indId%3d240201IND01%2635%3d6%262%3d%23last%233%2633%3d0%2c1%2c2%2623%3d0%2c2%26sAreal%3d240201%26dType%3dName%26IType%3dSerbianCyrillic>, downloaded in 2013.

degree of economic development of local self-governance units within broader territorial units. The fewest services are available in rural areas. The content of certain services is insufficiently known both to the providers and beneficiaries of service. Service providers include the institutions of the system and associations of persons with disabilities, most frequently engaged in projects, all of which has an impact on the type, quality and sustainability of services.

The most used services in the community for this beneficiary group are the following: day care and education, sport, recreational and the activities in the field of culture, transport related to program activities. Some of the most rarely used services include the following: home-based assistance, personal assistants service, supported community living, therapy services and specialized city transport¹⁹. The highest share is a share of services for the children and for the young with developmental disabilities. The biggest number of local self-governance units (68) provide services of day-care for children with developmental difficulties and twice less (35) self-governance units provide services of home assistance for children with developmental difficulties .²⁰

In order to improve the position and social inclusion of the persons with disabilities, the Ministry of Labour, Employment and Social Policy provides financial support for the implementation of the program of social and humanitarian organizations as well as for the implementation of the projects for improving the position of the persons with disabilities.

24.6% of gross domestic product was spent in 2010 in Serbia, while the average in 27 countries European Union members was at the level of 29,4%²¹. There is no available data on the allocation in percentages for GDP for the field *appropriate standard of living and social protection of persons with disabilities*.

The highest share of allocations for social protection comes from the national level. Allocations from the Republic of Serbia budget for social protection beneficiaries do not follow the trend of increase in number of these beneficiaries, that is to say, there is a great misbalance between the

¹⁹ Source: The first national report on social inclusion and reduction of poverty (2011).

²⁰ Preliminary data of research of the Center for Liberal-Democratic Studies carried out during 2012.

²¹ According to Eurostat data.

number of beneficiaries on the one hand and allocations for the social protection/benefits on the other. A share of expenditures for social protection in total expenses of local self-governance units is less than 5%. The structure of local self-governance units expenditures itself is relatively stable but with big differences between individual units. *Social protection benefits* (with a share of 71% i.e. 56% if the city of Belgrade is excluded from the analysis, in total expenses of cities and municipalities for social protection) dominate the expenses, while allocations for *financing the work of social protection institutions* are 29% on the average (i.e. 24% if data for Belgrade are excluded).

Methodologies

Working groups analyzed five mentioned fields; in the first segment „desk analysis“ of legislative and institutional framework was carried out, which was then presented to the organizations of persons with disabilities (OOSI) in meetings and by sending through OOSI mailing list in Serbia in order to receive comments.

The analysis of the implementation of legislative framework in practice and collecting case studies in certain fields were done by sending questionnaires to the OOSI members, and then through five specially organized focus groups in Belgrade, Novi Sad, Niš, Kragujevac and Užice, as well as on the basis of independent regulatory bodies in the Republic of Serbia (Ombudsman and Commissionaire for Protection of Equality), reports from other relevant institutions and published surveys of different organizations in these fields.

3. ANALYSIS OF LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

3.1. ACCESSIBILITY

3.1.1. LEGISLATIVE FRAMEWORK

The analysis of harmonization of legislative and institutional framework in the Republic of Serbia was done on the basis of Article 9 of UN Convention on the Rights of Persons with Disabilities and the field of accessibility.

Definitions and anti-discrimination legal framework

Law on Planning and Construction defines accessibility standards as „obligatory technical measures, standards and requirements of designing, planning and construction that enable unimpeded movement and access of persons with disabilities, children and elderly people“ (Article 2, section 40). **Rulebook on Technical Standards of Accessibility** of May 2013 defines a person with a disabilities in the following way: „A person with disabilities is anyone with bodily, sensory or intellectual impairment who, due to the barriers that exist in the environment is unable to move unimpeded or use public areas, public use facilities, residential buildings, including public transportation and other services intended for the public“ (Article 3).

Law on Prevention of Discrimination of Persons with Disabilities lays down, among other, the ban of discrimination of persons with disabilities in the field of access to public buildings, areas and services (Art 13-16), and access to public transportation (Art 27-29). The law forbids denial of access to public buildings and areas, refusal to provide services by a person within the framework of his/her activity or provision of the same service to persons with disabilities under unfavourable conditions. A person providing the above services is required to perform *necessary adaptations* in order to make the service accessible to a person with disabilities. An owner of a public use facility is required to perform necessary adaptations. The Law forbids disabilities-based discrimination in public transportation. That discrimination includes refusal to transport a person with disabilities, refusal by the transportation means staff to offer physical assistance necessary for transport by that means, if such assistance does not endanger safety of traffic; the law also forbids imposing disadvantageous transportation conditions for persons with disabilities (Article 27). Transportation of persons with disabilities in specially adapted means of

transport and special rate fares do not constitute discrimination acts (Article 28).

This Law lays down that local self-governance units should undertake measures to create accessible physical environment for persons with disabilities (Article 33). The Law also envisages an obligation of public authorities bodies to take measures to ensure that the persons with disabilities are equal in procedures conducted before these bodies (Article 34). In May 2008 started the development of the **draft Law on Use of the Sign Language**. Section V also lays down a separate civil procedure for disabilities-based discrimination.

Legal framework for accessibility of physical environment

According to the Law on Planning and Construction of 2009, an obligation is laid down for designing and construction of high rise buildings of public and business purpose as well as of residential and business-residential buildings with 10 and more apartments, so that the persons with disabilities, children and elderly persons are allowed unimpeded access, movement, staying and working in them (Article 50). The Law defines the accessibility standards (Article 2) which are further defined in more details in a by-law. Article 30 of the Law on Planning and Construction, in its item 5 explicitly states that physical plans must contain, among others, the requirements stipulating that the areas and the public purpose buildings should be made accessible in the sense of technical accessibility standard.

A body responsible for issuing building permits issues a decision approving removal of barriers for disabled persons (Article 149). A fine has been laid down from 100.000 to 500.000 Dinars for the investors who do not comply with accessibility standards, as well as a fine of 10.000 to 50.000 Dinars for responsible individuals. In May 2013 a new **Rulebook on Technical Accessibility Standards** was adopted.²² The Rulebook defines more closely technical accessibility standards and elaborates on city planning and technical requirements for planning the areas of public, traffic and pedestrian areas, access ways to building and building design, both for newly designed buildings and buildings being renovated (residential, public use buildings, etc. as well as special devices in them (Article 1).

The Rulebook on Manners and Content of Performing Review of Main Designs envisages perfuming of technical check of new building main

²² „Official Gazette RS“ no. 46/ 2013.

designs. Among other, application of technical standards is checked; however, the Rulebook does not explicitly state accessibility standards, due to which there may be some challenges regarding application in practice.

Legal framework for accessibility of public transport

The new **Law on Air Traffic** was adopted in autumn 2010. In its Article 127, paragraph 3, it lays down an obligation of an operator to provide all necessary services to passengers with disabilities and with impaired mobility so that they can have the right to participate in air traffic on the same conditions, i.e. without discrimination.

Law on Safety of Road Traffic regulates, among other, issuing of tickets for the vehicles for persons with disabilities. A vehicle adjusted for operation by a person with disabilities can be marked by a special sticker issued upon that person's request. The Ministry of Internal Affairs prescribes the appearance of the sticker (Article 24). Uniform sticker for parking the vehicles registered on the name of a person with disabilities at designated parking places is valid for the entire territory of the Republic of Serbia. However, local self-governances are responsible to prescribe the criteria for issuing stickers, so that in practice, there are no uniform criteria. No stopping or parking of the vehicles on strips for movement of persons with disabilities are allowed or at parking places reserved for vehicles of persons with disabilities, unless a vehicle has a parking sticker" (Article 66)

The Law on Railway Transport, in its Article 87 lays down that the contract on obligation of public transport and general rules define the quality requirements, including ensuring accessible crossing with passengers with disabilities (item 6) and level of quality of services provided by railway carrier, including accessibility for passengers with disability (item 7). Railway Directorate performs checking of quality of railway services, including accessibility for passengers with disability (Article 93).

The Law on Road Transport does not contain any special provisions on accessibility of public railway or road transport. City transport company Beograd as well as Public Company Lasta issued a decision to allow the blind passengers to get on their vehicles with guide dogs.

1.4 Legal framework for accessibility of information and communication

Law on Public Information of Serbia of 2003 envisages a general obligation of the state, territorial autonomy and local self-governance to make the

information available to persons with disabilities, while the **Law on Preventing Discrimination of Persons with Disabilities** prescribes an obligation of the state bodies, territorial autonomy and local self-governances responsible for issues of culture and media to take measures to provide access to information and communication to persons with disabilities through the use of appropriate technologies and ensuring access to information in the public TV service informative program by subtitling the news and text display (Article 35). The public debate on draft of the new Law on Public Information is currently ongoing. The draft contains clauses on providing persons with disabilities access to public information by, among other, application of translation into sign language and the use of Braille alphabet.

Law on Electronic Communications envisages that the goals and principles of governing the relations in the field of electronic communications should, among other, include ensuring availability of services of universal service to all citizens of Serbia, while meeting the needs of specific social groups, including persons with disabilities and provision of maximum benefit for the users of electronic services, including the persons with disabilities, especially in terms of rate, selection and quality of services (Article 3). General requirements that may be prescribed for all or only some types of electronic communication networks and services include, among other, consumer protection requirements, including requirements for provision of accessibility to services of universal service for persons with disabilities, (for example by fixing terminal equipment adjusted for the use of persons with impaired hearing, vision etc. in operator's offer, that are defined for the universal service providers, as envisaged by the Law; or by adjusting the telephone booths for access and use of the persons with disabilities – Article 37, item 12). The main services of universal service also comprise special measures offering the persons with disabilities the same possibilities to access telephone services, including calls to emergency services (Article 55, item 5). The Ministry lays down the requirements in terms of providing the same possibilities for using the services by persons with disabilities (Article 55). The Agency is authorized to order modification of rates to the operator if necessary to provide equal possibilities for using the services by persons with disabilities (Article 56).

The Government of Serbia has issued a **recommendation** to responsible authority bodies to provide availability of public information in electronic format for the blind and persons with poor vision. It is worrying that the

„Presentations of the public administration bodies largely do not pass the validation in the context of eAccessibility (accessibility of content of presentation to the persons with disabilities)“.²³

Legal framework for accessibility of services designed for the public

Law on public procurements lays down obligatory technical specifications and documentation in the public procurement procedure. Technical specifications relate to, among other, the accessibility of goods and services to persons with disabilities (Article 70).

Rulebook on the Conditions and the Manner of Performing Hospitality Activity, the Manner of Providing Hospitality Services, Classification of Hospitality Facilities and Minimal Technical Requirements for Organization and Equipping of Hospitality Facilities, in its Article 30 envisages that a hospitality facility in which services are also provided to the persons with disabilities, must have an entrance to the building, as well as the door, equipment and the area for manipulation in the rooms that are used, and must be dimensioned in accordance with the needs of the persons with disabilities.

Strategic framework for accessibility

The Government of the Republic of Serbia adopted on 28 December 2006 a **Strategy for Promotion of the Positions of the Persons with Disabilities in Serbia from 2007 to 2015**. The fifth general objective envisaged by the Strategy is allowing access to persons with disabilities to built environment, accessible transport, information and communication as well as to services intended for public. In order to reach this goal, the plan of removal of barriers and building of accessible buildings and services should be developed and implemented. In order to implement the goal 5, the Strategy defines the following objectives:

- Objective 13: Make sure that all new public buildings and buildings open for the public, traffic infrastructure and buildings in the function of passenger transport are accessible to persons with disabilities in all traffic branches
- Objective 14: Gradual and continuous adaptation of the existing public buildings, transport infrastructure and transport means in public

²³ Harmonization of websites of state administration bodies with the document „Guidelines for designing web presentations of the state administration bodies“: Report of the Administration for Digital Agenda to the Government of Serbia, Belgrade, 2011, p. 4

transportation of passengers in all traffic segments, in order to make them accessible to persons with disabilities

- Objective 15: Provide accessibility of information, communication and services, including application of information and communication technologies and other scientific achievements in order to create equal opportunities and improve the position of persons with disabilities.

In the field of physical environment accessibility, local self-governance units adopt general urban plans and regulatory plans; however, these documents most frequently do not contain the provisions on accessibility. Some towns, like Novi Sad and Pančevo, have adopted local strategies and action plans to create accessible environment. Action plans for creation of accessible environment have also been adopted in Majdanpek, Veliko Gradište, Novi Pazar, Užice, Pirot, Zrenjanin, Sombor, Apatin, Indija, Titel, Temerin, Vrbas, Žabalj, Bačka Palanka...

Strategic documents governing the field of public transport and public information do not contain special provisions on accessibility.

3.1.2. INSTITUTIONAL FRAMEWORK

Institutional framework for accessibility of physical environment in Serbia

Ministry of Construction and City Planning is a responsible ministry for the issues of physical environment accessibility in Serbia. The Republic Agency for Physical Planning, among other obligations, has an obligation to organize training, offer expert assistance during preparation of plan documents. Engineers' Chamber may have a role in promoting accessibility standards since it works on preparation of by-laws and may initiate procedures before the Court of Honour for members who act unprofessionally and unconscientiously. At the level of autonomous province, the provincial secretariat for city planning, construction and protection of the environment is responsible for physical environment accessibility issues, while at the level of local self-governances these are municipal and city secretariats and city planning and construction administrations, directorates for construction land, administrations for public utility issues and administrations for transport and roads. Supervision of compliance with the accessibility standards should be performed by construction and city planning inspection, however this rarely happens in practice due to insufficient definition of the control system and lack of knowledge of accessibility standards, lack of expertise

and low level of awareness. Physical planning documents with the enclosures, including the graphical part of the plan, as well as the urban plan are made available to public (for 30 days at the document issuer's seat, publishing a public gazette, on the Internet). When the making of the city planning design is envisaged by the plan document, this design is also made available for public inspection (during 8 days). At this stage the responsible persons are: the responsible planner, responsible city planning officer and planning commission.

The committees in charge of technical inspection of buildings should have an important role in monitoring the compliance of accessibility standards, but in practice they deal with accessibility standards insufficiently often or systematically. Persons responsible for compliance with the law, and hence with accessibility standards during designing and construction of the building is a responsible designer, technical control of the project (the most responsible for correcting the errors during the design stage), responsible contractor, independent engineer and the Committee for Technical Inspection of the building.

Local accessibility teams have been formed in: Novi Sad, Pančevo, Sombor, Zrenjanin, Apatin, Indija, Bačka Palanka, Titel, Vrbas, Žabalj and Temerin.

Accessibility and universal design are taught at Belgrade and Novi Sad Universities. Professional associations of architects, city planners and engineers could play an important role in promoting accessibility and universal design.

Institutional framework for accessibility of public transport in Serbia

Transport Ministry is responsible for the issues of transport in the Republic of Serbia. At the level of province and local self-governances the bodies in charge of this field are transport secretariats. In efforts to ensure accessibility of public transport, the Directorate for Railway, Public Company Air Serbia, Serbia Railways, Public city transport companies, public companies of airports in Belgrade and Nis, trade and professional associations, chamber of engineers and associations of carriers may also have an important role.

Institutional framework for accessibility of information and communication

The Ministry of Culture and Information and the Ministry of Foreign and Internal Trade and Telecommunications – Administration for Digital Agenda are responsible for accessibility of information and communications, as well as for public TV services. The Republic Agency for Electronic Communications and the Republic Radiodifusion Agency RRA could also play a significant role. At the provincial level and the level of local self-governances these are secretariats for public information. Public Company PTT, other public companies and providers in telecommunication fields and different professional associations may also have an important role.

Institutional framework for accessibility of services intended for public

Ministry of Foreign Affairs and of Internal Trade and Telecommunications, and of Finance and Economy are important for the accessibility of services intended for public, while the chambers and different professional associations may also have a certain role.

3.1.3. COMPLIANCE WITH UN CONVENTION

Compliance of legislative and institutional framework

Definitions of the persons with disabilities and of accessibility in the regulations relevant for this field are fully harmonized with the provisions of UN Convention.

Legislative framework of the Republic of Serbia for accessibility of physical environment has been to a large degree harmonized with the provisions of the UN Convention. Still, the provisions on monitoring mechanisms are not elaborated in sufficient detail, so they need additional improvement.

The legislative framework of the Republic of Serbia for accessibility of public transport in the field of air traffic and railway transport has been partly harmonized with the provisions of the UN Convention. Legislative framework of the Republic of Serbia for accessibility of road transport has not been harmonized with UN Convention provisions because the laws in this field do not contain accessibility provisions.

Legislative framework of the Republic of Serbia for accessibility of information and communications, including public TV services, has been partly harmonized with the provisions of UN Convention. The Law on Public Information and the Law on Electronic Communications contain high quality general norms on provision of equal access to public information and electronic communication by persons with disabilities, however these generalized provisions need further elaboration.

Legislative framework of the Republic of Serbia for accessibility of services intended for public has been partly harmonized with UN Convention provisions. The law on prevention of discrimination of the persons with disabilities governs extremely well the ban on discrimination of persons with disability in the field of access to services intended for public, however, by-laws and technical norms ensuring the accessibility of goods and services are missing.

3.1.4. IMPLEMENTATION ANALYSIS

Implementation analysis of legislative framework for accessibility

According to the data from the initial report of the Republic of Serbia on implementation of UN Convention on the Rights of the Persons with Disabilities to the Committee for the Rights of the Persons with Disabilities of January 2012, a total of 23 claims have been filed due to disability-based discrimination.²⁴

So, for example, a suit was filed against the local self-governance in Novi Sad due to non-accessibility of public areas and buildings of public interest and for denying the freedom of movement. The first instance decision was issued in favour of the defendant, while the plaintiff appealed against that decision.

*L.Č. sued the management of the hotel in Zaječar due to inaccessibility of hotel services to persons with disabilities. This court procedure was finished with a decision that the claim of the plaintiff was affirmed. After the hearing, the hotel manager admitted that they acted in a discriminatory way and took measures to make the hotel more accessible to persons with disabilities.*²⁵

²⁴ Initial report on implementation of the UN Convention on Rights of the Persons with Disabilities in Serbia, Section 165, Belgrade, 2012.

²⁵ Ibid cit. pp. 103- 104.

The Republic of Serbia also promulgated the Law on Ombudsman, which lays down that the protection of the human rights of persons with disabilities will be within the competence of one of the ombudsman's assistants, who will be responsible for protection of interest of this group of citizens. According to the annual work reports, an increase in the number of appeals submitted to the persons with disabilities to the Ombudsman is visible, and in 2012, 281 appeals were filed to the Ombudsman Office, relating to the position of the persons with disabilities, of which in 11 cases inaccessibility of architecture environment were claimed, and in cases inaccessibility of services intended for the public.²⁶

Based on the Law on Ban on Discrimination the office of the Commissioner for Protection of Equality was established. During 2012 the Office received 76 motions on the grounds of disability-based discrimination.²⁷ Even 21 % of these motions related to the situations of provisions of services intended for public and access to buildings and areas.²⁸ The first lawsuit for protection against disability-based discrimination was filed by the Office of the Commissioner for Protection of Equality on 02 October 2012 against the entrepreneur M.A. owner of the shop „P. C.“ whose employees refused to provide a service to the group of young persons with disabilities.²⁹ The First Basic Court in Belgrade reached a decision on 22 January 2013 on the grounds of omission, by which the claim of the Commissioner for Protection of Equality was fully confirmed.³⁰

According to the annual report on the work of Centers for Social Work for the year 2011, of 160 centers for social work only 16% have ramps on the entrance, only 15.5% have handrails, 29% accessible ground floor, and there are no lifts in any of the Centre for Social Work in Serbia! Only 14% of centers have an accessible toilet.³¹

In December 2011 a survey on accessibility and availability of buildings in public ownership in five towns and municipalities of Serbia was conducted

²⁶ Ombudsman's Report for 2012, Belgrade, 2013, p 74.

²⁷ Special report on discrimination of Persons with Disabilities in Serbia, Belgrade, 2013, p.

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²⁸ Ibid.

²⁹ Special report on discrimination of Persons with Disabilities in Serbia, Belgrade, 2013, str.

14.

³⁰ Ibid cit., p. 58.

³¹ Annual Report on the Work of Centres for Social Work for 2011, Belgrade, 2011.

by the organization CHRIS-Network of Boards for Human Rights in Serbia.³² The survey covered local self-governance bodies, judicial bodies, tax administrations, public companies, social protection institutions, health care institutions, institutions of culture, educational institutions, i.e. all those institutions in which citizens exercise some of their rights on a daily basis. On a sample of 156 institutions that provided the information, it was determined that 67% of them were not accessible to persons with disabilities, and that five of six surveyed institutions do not provide a possibility of vertical movement through a building by using a lift or other mobile platforms. Only one of ten institutions involved in the survey had toilets and counters adjusted to persons with disabilities. A great problem observed during this survey was the lack of ramps for access to buildings. For example, of eight schools in Nis that responded to the questionnaire, only one school had a ramp for access to the building.³³

The Ombudsman office annual report for 2012 states that, based on its own inspection, this body could see that none of over thirty local self-governances in Serbia provided full accessibility to the environment and information in a way envisaged by the Article 9 of UN Convention of the Rights of the Persons with Disabilities.³⁴ Having said that, even the Ombudsman offices do not fully comply with the prescribed accessibility standards, because they have tried to overcome the problem of the stairs at the building entrance by mobile ramps and stairway platform.

The representatives of the Office of the Commissioner for Protection of Equality in Serbia, on 8 and 9 May 2013, made a check of the accessibility of buildings of National Assembly, the Serbia Government building, different ministries as well as the business building that houses the Supreme Court of Cassation, the Court of Appeals in Belgrade, Commercial Court and Administrative Court.³⁵ The report on accessibility of these buildings shows that a big number of them are not accessible for persons with disabilities.

The conclusions on inadequate implementation of the accessibility of physical environment regulations are supported by two case studies in

³² Niš, Novi Sad, Negotin, Novi Pazar and Valjevo

³³ Special report on discrimination of Persons with Disabilities in Serbia, Belgrade, 2013, pp. 52 – 53.

³⁴ Ombudsman's Report for 2012, Belgrade, 2013, p. 75.

³⁵ Report on Accessibility of Office Buildings of State Bodies to Persons with Disabilities, Belgrade, 2013, p 1.

Sombor and Vranj, received during making of the report 'from the shadow' on implementation of the Convention on the Rights of the Persons with Disabilities in Serbia in 2011.³⁶

Survey and focus groups

The relevance of findings from the survey and focus group has primarily a descriptive component – experiences and views of the respondents toward the questions contained in the questionnaire and the subjects that were addressed during the work in the focus group. Each interpretation on the basis of the above was derived with a certain amount of investigator caution, given a small sample; still, the data obtained in such a way still have a capacity to point out at illustrative and important sequences of practice. We shall state some of the data derived from the questionnaires in reference to accessibility only as a possible illustration of the situation in this field.

Roads, pavements and roadsides are accessible in 14.71% of cases, i.e. partly accessible in 64.71% cases. As for the public transport in 55,88% cases it is not accessible, while accessible specialized public transport for OSI, in big cities such as Belgrade, Novi Sad, Kragujevac, is available in the form of specialized transport by adapted vans for the persons with disabilities, but their number is insufficient to meet the needs.

Access to information and communications in available formats in Braille alphabet and sign language for the persons with sensor impairments is provided in 11.76% cases only. Such responses are a clear indication that the access to information and communications for the persons with sensor impairments is very difficult, although there is a legal obligation of ensuring access to information and communication. Also, in 82.35% cases the persons with intellectual impairments are not provided access to information and communications by use of the documents in easily readable format, which shows an extremely uneven position of these persons when it comes to their access to information and communication.

Post offices, banks and shops are accessible for OSI in 22.55% cases, while the hospitality and sport facilities and institutions of culture are accessible in 8.82% cases only, and partly accessible in 66.6% of cases.

³⁶ *Disability is an Issue of Human Rights*, the first draft of report 'from shadow' on implementation of the UN Convention on the Rights of Persons with Disabilities in Serbia, Belgrade, 2011.

From the findings of such a partial survey, although on a small sample, a conclusion may be drawn that the provisions of valid regulations in the accessibility field in all segments in the Republic of Serbia are not sufficiently implemented in everyday practice.

3.2. EDUCATION

3.2.1. LEGISLATIVE FRAMEWORK

Obligations of states in the field of right to education of persons with disabilities are regulated by Article 24 of the International Convention on Rights of Persons with disabilities.

Definitions and anti-discriminatory legal framework

In the Law on preventing discrimination of persons with disabilities, which indirectly relates to education, the expression 'persons with disabilities' denotes persons with innate or acquired physical, sensory, intellectual or emotional disabilities, who, due to social or other obstacles, do not have possibilities or have limited possibilities to engage into the social activities at the same level with others, regardless whether they are able to realize the mentioned activities with the aid of technical accessories or support service.

There is no definition of disabilities in the Law on basics of education and upbringing.

In the Book of Rules on additional educational, health and social support to a child and a student (pupil) (Official Gazette 63/2010), regulation of Article 2 prescribes that additional support is provided without discrimination in any way to every child, i.e. pupil from socially sensitive groups, who need additional support in education, health or social care, due to social deprivation, developmental impediment, disabilities, learning difficulties and other reasons.

Article 2 of the Book of Rules on more specific guidelines for determining the right to an individual education plan, its implementation and

valuation³⁷, the right to IOP, inter alia, according to OECD classification, lies with the student who:

1. has learning difficulties (due to specific learning difficulties or problems in behavior and emotional development),
2. has developmental impediment or disabilities (bodily, motor, sensory, intellectual or multiple impairments, or disorders from the sphere of autism).

The formulation 'child with developmental impediments and disabilities' or 'child with disabilities and impediments in development' is consistently used in the Law on basics of system of education and upbringing, bylaws that enable its implementation and laws adopted based on that law and after that law, while the Law on higher education consistently uses the term 'students with handicap', except in Article 90, where a term 'student with disabilities' is used, and in Article 81 para 1, 'a student with special needs'.

Anti-discriminatory regulations in this field

Anti-discriminatory regulations in this field

Provisions of Articles 15-27 of the Law on prohibition of discrimination prescribe specific cases of discrimination; according to Article 19 para 2 it is forbidden to harden or to deprive a person or a group of persons an enrolment to an educational institution based on their personal characteristic, or exclude them from these institutions, harden or deprive the possibility to follow the lessons and participate in other educational activities, sort them by their personal characteristic, molest them or create an unjustified difference in any other way and treat them unequally.

Law on basics of system of education and upbringing³⁸ (ZOSOV) defined equal right and access to education for all; regulations of Article 44 para 1 prescribe that in (education) institution it is forbidden to perform activities that jeopardize, belittle, discriminate or separate a person or groups of persons, on the account of: racial, national, ethnic, language, religious or gender affiliation, physical and mental properties, developmental impediments and disabilities, health condition, age, social and cultural background, personal possessions, political affiliation and encouraging or non-preventing such activities.

³⁷ "Republic of Serbia Official Gazette", no. 76/2010

³⁸ Law on basics of system of education and upbringing ("RS Official Gazette no. 79/09 and 52/11)

Law on higher education, in its provision of Article 4 para 1 point 6, prescribes that education activity is based, among other, on the principle of respecting the human rights and civil freedoms, including prohibiting all forms of discrimination, while regulation of Article 86 para 2 point 8 prescribes that a student has the right to be different and to be protected from discrimination.

Law on preventing discrimination of persons with disabilities, provision of Article 3 para 1 point 2, prescribes that expressions 'discrimination' and 'discriminatory action' denote every making of difference or unequal treatment (exclusion, limitation or giving priority) in relation to other persons or groups, as well as to members of their families or persons close to them, in an overt or covert way, which is based on disabilities or reasons related to it.

Law on prevention of discrimination of persons with disabilities contains a part called *Discrimination in relation to education and upbringing*, forbidding discrimination due to disabilities in all levels of education and upbringing (Article 18 para 1), while the discrimination encloses (para 2): a) depriving admittance of a pre-school child, student or a student with disabilities in educational institution that corresponds to his/her previously acquired knowledge, i.e. educational possibilities; b) exclusion from educational or upbringing institution that a pre-school child, a student, or a student with disabilities already attends, on the account of his/her disabilities; and c) putting no-disabilities as a particular condition for admittance into the educational institution, including presenting health certificate and prior check of physical and psychical abilities, unless such a condition is determined in accordance with regulations that regulate the field of education.

Provisions of Article 19 prescribe that the following is not considered discrimination in education: a) checking special talents of pre-school children, pupils and students, i.e. candidates for enrolment to an upbringing i.e. educational institution according to certain teaching subject or group of subjects, their artistic talents or forms of special gifts; and b) organizing special forms of teaching for students i.e. pre-school children,

who cannot follow regular teaching contents³⁹ due to insufficient intellectual capabilities, as well as directing students i.e. pre-school children to such forms of education, if enrolment is made based on an act of competent body determining the need for such form of education of students, i.e. pre-school children.

Intimidation, insulting and belittling of a disabled pre-school child, pupil or student, on the account of his/her disabilities, when those actions are committed by a teacher or other person employed in an educational institution, is prescribed as particularly difficult case of discrimination (Article 20).

Legislative framework in the field of education

National rights of persons with disabilities to education, based on the Constitution, prescribe: Law on prohibition of discrimination, Law on preventing discrimination against persons with disabilities, Law on equality of genders, Law on basics of system of education and upbringing, Law on pre-school education and upbringing, Law on social care and children, Law on primary school, Law on secondary school (the last three adopted prior to signing the Convention), Law on textbooks and other teaching means, Law on high education (adopted prior to signing the Convention) and Law on pupils' and students' standard.

By-laws (rules on procedure, decisions, standards in this field, are numerous and there are 51 of them, this report analyzed only those most relevant for persons with disabilities.

Strategies and other documents

National framework for monitoring the development in lowering the inequality in education⁴⁰, Strategy of education in Republic of Serbia till 2020, Strategy of improving the position of persons with disabilities, Youth strategy and Action plan of politics for young APV.

³⁹ Commissioner for protection of equality sent to the Constitutional Court of Serbia a proposal for checking the constitutionality and legality of this regulation, considering that it is discriminatory towards one group of children with disabilities.

⁴⁰ Source: <http://magazin.invalidnost.net/index.php/sekcije/drustvo/303-Serbia-u-njujorku-predstavila-rezultate-inkluzivnog-education-dece-sa-smetnjama-u-razvoju-i-invaliditetom>

3.2.2. INSTITUTIONAL FRAMEWORK

Institutional framework at the national level

Ministry of education, science and technology (hereinafter: the Ministry) secures the functioning of education system, in accordance with general principles and goals of education and upbringing.

In order to perform technical-pedagogical supervision, providing support to developmental planning and securing the quality of work of institutions and performing other jobs foreseen by law, organizational units of **school administration** – 16 of them, are formed within the Ministry, for the activities relating to: Expert-pedagogical supervision in institutions; managing the lists of employees in education institutions; coordinating professional advance of teachers and associates, directors and secretaries of institutions; supporting developmental planning, developing pre-school, school educational program and securing the quality of education; participating in preparations of development plan for education for the area of concern of particular education institution and monitoring its realization; providing all conditions for institutions for undisturbed entry, updating and maintenance of education database within the framework of a unified Education information system; control of spending for appropriate purpose by the institutions, that is, performing activities in relation to financing indirect users of budgetary funds in the respective school administrative area; realizing cooperation with local community relating to providing funds from the budgets dedicated to professional advance of employees; technical processing of issues and complaints with regard to technical-pedagogical supervision and other businesses in accordance with the law.

Department of inspections in institutions of pre-school, primary, secondary and higher education performs activities relating to: Supervision over the legality of work of institutions; supervision over the legality of acts brought by institutions, when deliberating on rights, obligations and legal interests of citizens, on the basis of the law; inspection oversight and supervision over the work of institutions of higher and high education; supervision over the legality of work of and acts of the Institute for improving education and upbringing (ZUOV) and Institute for evaluation of quality of education and upbringing (ZVKOV); inspection oversight over the work of institutions when not performed by a municipal/city administration; administrative activities related to entrusted businesses;

deciding on meeting the criteria for issuing a working license; preparing responses to complaints / law suits and other submissions for the needs of court and other proceedings before the competent bodies; preparing a response on the appeal against the first instance Decision of the Education Inspector; realizing immediate supervision over the work of municipal / city education inspectors; issuing mandatory instructions; withdrawing the authority from individual inspector(s); technical/expert processing of cases and complaints in relation to performing the inspection oversight and other business in accordance with the law.

Inspection oversight of the work of an institution, as an entrusted job, is performed by municipal i.e. city administration. It is performed by an Education Inspector. The Inspector controls implementation of the law, realization of protection of rights of children and pupils, their parents/custodians and employees; meeting the conditions for exams; prescribed evidence (documentation); enrolment procedure and similar. Education Inspector of the Ministry (republic inspector) oversees the work of education inspectors.

Education Counselor performs activities of expert-pedagogical oversight. He evaluates the quality of work of the institution; gives help in self-evaluating; monitors respecting the principle and realizing the goals of education and upbringing; advises and gives technical/expert help; has a direct insight into the work of the institution, proposes to the institution, minister and competent bodies undertaking necessary measures for removing the irregularities and similar.⁴¹

Within the mandate of **National educational council** is the development and improvement of system of education through following and analyzing the state of education and its compliance with European principles and values, determining the line of development and improvement of quality of education, participation in preparing strategy of education, giving opinion to the Minister of education and science in the process of adopting the regulations, and other.

Institute of improvement of education and upbringing – ZUOV with the Center for developing programs and textbooks, Center for technical

⁴¹www.mpn.gov.rs,

http://www.cipcentar.org/i_roditelji_se_pitaju/index.php/informacije/76-znacajne-ustanoveustanove-znacajne-za-education

<http://www.equied.ni.ac.rs/dokumenti/viewcategory/4-publikacije.html>

downloaded Study of the Found Situation, p. 41)

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education and adult education and Center for professional development of employees in education, was established with the aim to perform developmental, advisory, research and other technical businesses in order to follow, secure and improve the quality and develop the system of education and upbringing. For performing expert activities in the sphere of following and evaluating, implementing general principles, realization of goals of education and upbringing, standards of achievements per levels and types of education, the **Institute for evaluation of quality of education and upbringing – ZVKOV**.

The Council for technical education and adult education is authorized for secondary vocational education, adult education, education for work, technical training

The Ministry of education has formed **a network of support to teachers and schools for introducing inclusive educational practice** that are formed with all school administrations. It includes employees in schools – practitioners, teachers, expert associates, directors, employees of the Ministry and school administrations, experts of ZUOV and ZVKOV, education inspectors, members of IRK and representatives of OCD. A team has been appointed for each school administration that a school can address and get support from. The Network is defined as an open system for further inclusion of practitioners and experts, as well as schools that are developing inclusive practice. At the moment, the support Network has 126 members, out of which 26 education counselors

2.4 Institutional framework at the provincial and local levels

For the field of education in APV (Autonomous Province of Vojvodina), a **Provincial secretariat for education, regulations and national communities**⁴² is authorized body, and it closely regulates and secures realization of rights of national minorities to education in their mother tongue, in all levels of education, as an issue of significance for APV for all education levels, including adult education and students' standard.

With regard to education of students with disabilities the Secretariat brings the decision on the quota of students from marginalized groups that will be enrolled based on passed entry exam and who will have a preferred

⁴² Source:

http://www.education.vojvodina.gov.rs/index.php?option=com_content&view=article&id=4&Itemid=6&lang=sr

treatment for accommodation in students' dormitories and use of ration cards for food; the Secretariat allocates funds to secure accessibility to education institutions through bidding, but does not have dedicated funds for this segment in the framework of annual bids for programs of OCD, it finance the OOSI and other OCD projects in the field of informal education, support to educational institutions and securing the accessibility.

The Pedagogical institute of Vojvodina was established by a Decision of the Assembly of AP of Vojvodina. Through its Development(al) Department it organizes events in the aim of improving the education process; designs and realizes programs of advanced training for teachers and technical staff in schools and pre-school institutions, encourages development and application of Strategy for developing the minority education; establishes technical bodies, commissions and working groups, uses the results of formal and informal education of governmental and OCD that can give a significant contribution to the concept of life-long learning. Within the framework of Research Department, there is researching of the state, possibilities and the need for education and upbringing process in pre-school institutions, primary and secondary schools, students' dormitories of Vojvodina; teaching programs for the needs of organizing education on languages of national communities in the area of APV, analyze and gives opinion on the quality of textbooks in languages of national minorities, program of VO work with recommendations and proposals for improving the quality of work; establishes cooperation with similar research institutions in the country and abroad.

At **municipal** level, in the field of education i.e. for construction of objects, their infrastructure and segment of informal education, municipal / city administrations or secretariats for education are competent bodies. It is often the case that administrations/secretariats are in charge of social and children care, general affairs and culture.

Based on ZOSOV and Book of rules on additional educational, health and social support to children and pupils, local self-management structures are obliged to form inter-ministerial commissions. According to the data available to the project team of DILS⁴³, 151 such commission have been formed, three of which are inter-municipal (Vlasotince with Crna Trava, Lapovo with Raca, Prokuplje with Kursumlija, Raca and Zitoradja); 16 such commissions were formed in the city of Belgrade. The commissions were

⁴³ Data of DILS project, situation on 3 October 2012, www.dils.gov.rs

not formed in 5 municipalities: Belgrade, Novi Knezevac, Presevo, Sremski Karlovci and Trgoviste.

The Law on basics of the system of education and upbringing prescribes that parents and persons who know a child well be a part of the team for giving additional support to an individual child and that a parent of a child with disabilities be a member of the Parents' Council. It prescribes forming of a team of experts for inclusive education in every school that educates children who need additional support in education. This law, as well as Law on high education, prescribes forming of pupils' and students' parliaments. There is a possibility to regulate the participation of insufficiently represented groups in pupils' and students' parliaments that can be regulated through statutes and rules of institutions.⁴⁴

According to the data of Ministry of education, culture and technological development, Serbia has a total⁴⁵ of 220 pre-school institutions and kindergartens, 1106 primary schools and 7 schools for primary education of adults, 503 secondary schools. There are 324.145 vocational schools, 33 art schools, 5 foreign schools, 41 schools that the Law on basics of system of education defines as schools for children with impediments in development, out of which 23 are primary schools with pre-school departments, 17 schools for primary and secondary education with pre-school departments, and 1 secondary school. From the overall number of schools, 5 are for education of children with hearing impairment, from them 4 are SOSO with dormitories, 2 primary schools for students with sight impairment and one secondary school. For most profiles in secondary schools, them being a three-year (vocational) schools, there is no access to high education, which is recognized as one of reasons of lack of deaf people in the system of high education, 8 state (including University of Kosovska Mitrovica) and 10 accredited private universities, 8 of which are in Belgrade and 1 in the process of accreditation, 1 in Novi Sad, 1 in Sremska Kamenica and 1 in Novi Pazar.

⁴⁴Affirmative measures and the limits are not stipulated by the Law on Higher Education. In Novi Sad University Statute there is a provision that NSUSI and the Union of Roma Students appoint one representative of student parliament each (with a note that the explicit statement of the organizations that gather only two insufficiently represented groups is not in accordance with the development of (higher) education for all. Other universities do not have such provisions in their Statutes, which are only harmonized with the Law on Higher Education with regards to the issue of possibility of adjusting the manner of taking exams.

⁴⁵<http://www.mpn.gov.rs/sajt/section.php?sekcija=31>, link Registry of institutions, accessed on 4 April 2013.

3.2.3. COMPLIANCE WITH UN CONVENTION

By provision of Article 19 para 1 point 2 of the Law on preventing discrimination of persons with disabilities, an unjustified difference was made between children with intellectual disabilities and other children, thus discriminating this group of children based on their personal characteristic. Besides the fact that this approach has been overcome, the legal regulation is outdated and discriminatory, as it sets only the children with intellectual disabilities ('insufficient intellectual abilities') to an unfavorable position when it comes to selection of the kind of education. In that way, only one personal characteristic of a child is singled out.

Provisions of Article 24 of the Convention were incorporated into all the mentioned documents from the sphere of education and Strategy adopted in 2005, though, essentially, it is just a harmonized text of the Strategy of improving the position of persons with disabilities. All documents in the field of education adopted after 2009 maintain social distance towards persons with disabilities.

In laws and by-laws, apart from repeating the social distance, the most disputable is adherence to Article 24 paragraph 4 of the Convention. Regarding the educational profile of the staff, it is mentioned *special skills and knowledge to work with children with disabilities, defectologist training or defectologist education*. These regulations in documents adopted prior to and after adopting ZOSOV, in the manner they were formulated, it seems they were completely and uncritically adopted at the proposal of institutions of special education and defectologist profile, in the aim of their own sustainability. It has no mention of a teaching staff with disabilities and their employment. The Law on students' standard and in Books of rules, a medical approach is dominant.

3.2.4. IMPLEMENTATION ANALYSIS

Analysis of application of legal framework

The Ombudsman realized that the Republic of Serbia adopted the laws and other regulations that improved the normative basis for realization and protection of rights of persons with disabilities, but they are daily faced with complex problems that make it impossible to realize those rights and to reach the desired level of social inclusion, all because particular

normative solutions do not contribute to their efficient, systemic and permanent solving. The support, partially provided through systems of social care and education, is not sufficient to lift the causes of problems that are an obstacle to full inclusion of persons with disabilities into the social life. In Ombudsman report for 2012⁴⁶, it was stated that during previous year, regarding protection of rights of persons with disabilities, 270 citizens addressed the Ombudsman, while 11 procedures were initiated through personal initiative (281 in total), of that 2 in the field of education. It did not specify what these two complaints related to.

Based on cases that Ombudsmen was handling during 2012 it turned out that persons with disabilities in Serbia are most often faced with problems in realizing rights to social and health care, education, employment and professional rehabilitation, while the causes for that are prejudice, discrimination and 'inaccessibility of rights', both due to lack of information and appropriate legal aid in the local administration and inaccessibility to public institutions and communication obstacles. Total improvement of the position of citizens with disabilities and their full social inclusion depends on the support they will get in the immediate environment through systems of social and health care, education, employment and elimination of discrimination and fighting the prejudice. In order to achieve that, it is necessary to, besides adopting appropriate normative basis, overcome the existing resistance and problems in the public administration that are noticeable in the non-timely processing of citizens' complaints relating to realization of rights deriving from disabilities; non-harmonized and partial implementation of improvement measures in different administrative systems; inexistence of clear criteria for implementation of measures to secure full equality of these citizens; and permanent lack of funds for their implementation.

Independent life and social inclusion should, according to the Ombudsman, "stimulate fight against poverty, i.e. planning and managing measures that will contribute to lasting removal of causes that are an obstacle to realization of mentioned goals. Improving education and employment of persons with disabilities were singled out as such measures and appropriate regulations were brought accordingly; with certain corrections,

⁴⁶<http://www.ombudsman.rs/index.php/lang-sr/izvestaji/godisnji-izvestaji>: Redovan godišnji izveštaj zaštitnika građana za 2012 godinu.doc, pg. 191-199.

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improvements and, most importantly, strict implementation, they might contribute to improvement of persons with disabilities.”

Data from researches conducted by CSOs

During 2012, a group of civil society organizations⁴⁷ was engaged in monitoring of education according to inclusion principles in 25 primary schools and 5 pre-school institutions in Serbia (Nis, Pancevo, Uzice and Belgrade) and presented the most important improvements and aggravating circumstances of implementing inclusive education in their report, particularly in relation to the resources of education institutions. The Report⁴⁸ states that in some situations procedures of functioning of technical teams for inclusive education are not respected, especially in cases ‘when there is a resistance with teachers who do not want to report a child with potential developmental impairment, because they do not want to get additionally engaged’, which causes discrimination and not securing additional support to a child with developmental impairment in practice. This directly deprives the possibility of quality education, since the process of support within the education institution is stopped at the first stage, at getting to know the educational situation of a child and planning the further support. The Report also said that the work of technical teams for inclusive education in some situations is aggravated by teachers who openly refuse to work on inclusive education, resisting even planning and realizing activities of inclusive education, or are being passive⁴⁹.

According to the Report of the office of Commissioner for protection of equality, normative framework in the field of education and upbringing of children with developmental impairment and disabilities is mainly completed, however, difficulties are found in the field of implementation of legal solutions, particularly in the field of providing additional support regulated by *Rules on additional education, health and social support to*

⁴⁷ Association for development of children and young – Open club Nis, Initiative for inclusion Veliki Mali, Center for interactive pedagogy, Uzice center for children rights, Nexux Vranje, within the framework of the project ‘Civil society for inclusive education – children tailored education’ <http://www.oknis.org.rs/education-po-meri-dece/> (accessed on 7 March 2013).

⁴⁸ Report on results of monitoring of education according to inclusion principles (inclusive education) in the education system institutions, published by Center for development of children and youth – Open Club Nis, 2013, <http://zadecu.org/wp-content/uploads/2013/01/Izvestaj%20o%20rezultatima%20pracenja%20IO.pdf> (accessed on 15 March 2013)

⁴⁹ Downloaded from special report of the Commissionaire for Protection of Equality

*children and students.*⁵⁰ Some forms of support, such as personal attendant to a child, pedagogical assistant and other support that demand additional funds, actually do not exist in the local level, and they are not regulated or planned in any way. Depriving additional support puts a child with developmental impairment into an unfavorable position in relation to children of wider population and influences the quality of education and their equal position. Non-compliance to legislative framework and possibilities prescribed for quality education of children with developmental impairment is noticeable in the real situation in the practice, i.e. opinions of inter-ministerial commission for securing additional education, health and social support to a child / student, resources of educational institutions and local communities.⁵¹

With regard to higher education, there is no unique database or access to collecting the information on number and structure of students with disabilities. Data of the Republic Statistical Bureau and students' organizations differ. Students with disabilities make 0.5% of students' population. In the special report of the Commissioner, family poverty and inaccessibility of objects are listed as main reasons, as well as insufficient availability of textbooks and other auxiliary technical means. It does not mention educational structure of young with disabilities who complete secondary school and the fact that a number of students do not have transferability due to previous education in special or three-year schools.

Surveys and focus groups

Answers to the sent questionnaire (21) relating to personal experience show that 75% of persons who filled out the questionnaire have experience in this field, work in the field, have information about rights and have advocacy experience in changing the existing formal framework and the situation in the field, and recognize what steps need to be taken. Most persons who filled the questionnaire said they did not know answers to a good deal of questions and therefore did not know whether to fill it and

⁵⁰ "Republic of Serbia Official Gazette", no. 63/2010

⁵¹ See Opinion with the Recommendation of the Ombudsman, no. 14-2755/12 of 6 December 2012, sent to the Ministry of Education, Science and Technological Development, Ministry of Labour and Social Policy and Ministry of Health, in order to get additional support for pupils with developmental disabilities in the education system, http://www.ombudsman.pravdeteta.com/index.php?option=com_content&view=article&id=475%3A2012-12-05-16-48-54&catid=40%3A2012-04-09-12-59-47&Itemid=85&lang=sr (accessed on 07 March 2013)

how (or did not have sufficient information, first and foremost about the education of persons with other kinds of impairment in relation to their personal experience).

The most indicative answers, from the aspect of being informed, were those to the question if APV, their city, municipality, University, have adopted decisions and measures and formed bodies in the aim of securing the rights and conditions for inclusive education. They all responded that they are familiar with decisions of a level competent for education level attended by their children, or education level in the domain of activity of organizations they represent. Representatives of organizations from Belgrade were not informed about the steps adopted by the APV in the aim of securing the rights and conditions for inclusive education.

Considering that the sample was small and profiled in relation to being informed about the matter, the relevance of the data is conditional.

Based on received answers, questions, suggestions in relation to the questionnaire and accompanying reactions, it may be concluded that pupils / students are not familiar with Article 24 of the International Convention. Bearing in mind developed practice and knowing the situation in the field, recognizing its purpose in the process of advocating improvement of the legal framework, its implementation and improvement of education conditions by representatives of organizations active in the field of education of persons with disabilities, would create a group that would exert pressure with its activity relating to Article 24, which would enable full participation of the movement in all segments of the process, from adopting the decisions and documents to individual initiatives, in order to improve conditions of education of persons with disabilities.

Some personal experiences of other persons with disabilities and experiences of children in relation to realization of rights to education were presented in the focus group, and here are only some of them, for the purpose of illustration:

Although he has been disabled before 7 years of age (particularly in the system of education), as parents we recognized the desire and the capacity of our child to be an equal member of this society, his place of residence, his street, school. Thanks to the support of the association and work of our family with defectologists from CZU, we successfully realized the right of our child to education and growing without disabling. He is a happy and

successful pupil of the 3rd grade of primary school. As a parent, though, I am still not happy with the way how inclusion is applied, manner of working with disabled persons in education institutions.

My son is a boy with difficulties from the autistic spectrum. He just completed the first grade of secondary school. Support in the framework of education system was minimum (if we leave out first four grades of primary school) and he is a successful student only thanks to his own enormous effort, work and engagement of the whole family, and a few enthusiasts – his teachers.

From my personal experience I can say that parents and teachers are left to themselves; despite all legally guaranteed rights, system of support does not exist in the field. Work of the inter-ministerial commission is terribly slow and unreachable, meanwhile the children are deprived of quality education adjusted to their abilities.

The problem with persons with hearing impairment is the communication, and they are not in a position to follow the lessons; some professors did not want to adjust their lecturing to deaf persons and often called them to come out and answer orally.

Another group of experiences relates to assumed capacity, in the sense of lowering the criteria and demands for the disabled students, automatically excluding them from the competition for the highest marks – smaller number of exam questions (resulting in maximum mark of 8) etc.

An example of little Anja, enrolled in a primary school in Novi Sad – all children in the class accepted Anja as equal and they were helping her during classes and breaks. The teacher, however, said from the start that the girl did not belong to school, constantly avoided talks we asked for – more consultative rather than mentor, she insisted that I, as an expert and a person with personal experience, am banned from coming to the meetings of the inclusion team, saying that listening to me makes her uncomfortable....

Conclusions

There are not enough data to assess the trends in the high education of persons with disabilities, because students fulfilling the SV form are not obliged to fill the part relating to this and some other identities, while this

type of data is not envisaged in the form that is filled upon completed studies. Therefore, data on number of graduated students is available at National Employment Bureau (NSZ), according to the structure of those registered with this body, and organizations of persons with disabilities that have databases about their members. Since the registration with NSZ and private employment services, as well as membership in associations, is voluntary and personal decision, we lack the exact data on the number of enrolled/completed students, at an annual level and in general .

In defining measures of adaptation or individualization, disabilities and impairment are mentioned as a reason, not accessibility and adequate conditions to use the textbook, take the exam, etc., which points to the lack of understanding of the disabilities phenomenon and implies lack of expectations from the disabled students and lack of counting on them.

3.3. HEALTH CARE

3.3.1. LEGISLATIVE FRAMEWORK

The anti-discrimination legal framework legal framework

Health care for all the citizens for the Republic of Serbia is regulated by a number of laws and bylaws. However, there is no specific law regulating the issue of health care for persons with disabilities, but there are provisions in the existing regulation regarding this population. Also, there is no official definition of disabilities in this area, nor the uniform terminology. In addition to the Law on Anti-Discrimination and the Law on Prevention of Discrimination against Persons with Disabilities, prohibiting discrimination in all spheres of life, most of the regulations in the health care field comprise provisions on prohibiting discrimination on various grounds.⁵²

Constitution of the Republic of Serbia⁵³

Article 21, paragraph 3 prohibits any form of discrimination on any grounds, mentioning “physical or mental disabilities”, and **Article 68** states that “everyone” has the right to health care, while the paragraph 2 defines the people who actually have a right to health care from public sources (children, pregnant women, mothers on maternity leave, single parents with children under seven years of age and the elderly). This right, however, does not apply to people with disabilities, which should be added.

Law on Prevention of Discrimination against Persons with Disabilities⁵⁴

Article 17 classifies discrimination in the provision of health services to people with disabilities as a severe case of discrimination in the situation as follows: if the provision of a health service to a person with disabilities is refused because of his/her disabilities; if specific requirements for the provision of health services to people with disabilities are set if these requirements are not justified by medical reasons; if one refuses to diagnose and denies the adequate information on current health status, undertaken or intended treatments and rehabilitation of people with disabilities because of their disabilities. Discrimination is also any

⁵² Addressed in more details in the section of dealing with individual regulations.

⁵³ Official Gazette RS, 83/2006

⁵⁴ Official gazette of the Republic of Serbia, 33/2006

harassment, insulting or belittling people with disabilities because of their disabilities, during their stay in a medical institution.

National level

Law on Health Insurance⁵⁵

Article 22 provides that the insured, among others, are considered persons with disabilities or mental disabilities, so **the status and terminology should be unified** and Article 34 regulates which health care activities represent the **Right to health care**, and among other things it lists prevention, examination and treatment of diseases, dental examinations and treatments, rehabilitation, drugs and medical devices and medical and technical devices.

Preventive measures are regulated by Article 35, and they lists - health education for a healthy lifestyle, and systematic and screening programmes, dental measures, family planning counseling and various types of tests for sexually transmitted diseases, vaccination, epidemiological measures. Screening programmes are also important for women with disabilities to preserve gynecological health. Article 36 prescribes that in connection with family planning, during pregnancy, during childbirth and motherhood up to 12 months women are provided the right to gynecological examinations and treatments within which fall hospitalization, treatment of infertility and patronage visit. This provision is important because of women with disabilities who want to realize their motherhood.

Article 37, paragraph 4, provides that a chosen physician may perform **the examination in primary health care and in the home of the insured**, and paragraph 8 prescribes that the elderly with serious bodily and mental developmental disabilities, i.e., persons who, in their lifetime, lost some bodily or mental functions due to illness or injury because of which that person is not able to independently to perform activities of daily living, including the blind, visually impaired as well as deaf persons **have the right to a carer** during their hospitalization and medical rehabilitation, if it is medically necessary. Article 41, paragraph 1, item 1 determines that **the treatment of diseases of the mouth and teeth** at the expense of the state is provided to the elderly who have severe physical or mental disabilities, as well as to persons with severe congenital or acquired deformities of their

⁵⁵ Official gazette of the Republic of Serbia, 107/2005, 109/2005, 57/2011 (see also transitional and final provisions) and 119/2012 (see also artt. 11, 12. i 13). See: Decision US RS, IU no. 54/2006 - 38/2010-28. See: Decision US RS no. IUz-314/2011 - 110/2012-15

face and jaw. Article 44 envisages the right of the insured to **medical-technical devices** as well as the obligation of the Fund to more precisely regulate this area by a general law (ordinance). Article 45 envisages that the compulsory insurance **covers 100% of the cost of check-ups, treatment and rehabilitation of the insured** in the event of injury or illness of persons who have severe mental or physical disabilities, for examination and treatment of multiple sclerosis, progressive neuromuscular diseases, cerebral paralysis, paraplegia and quadriplegia, as well as the medical-technical equipment in connection with the treatment of injuries and diseases referred to in paragraph 1 of this Article. This article envisages coverage of at least 80% of the cost of health services, among other things, for treatment at home and rehabilitation in-patient facility. The Law in Articles 50 and 51 also envisages that **the health care in full amount without participation** be provided, among other things, to war veterans and civilian war invalids, blind persons, permanently immobile persons and persons who are entitled to reimbursement for home care.

Article 52 defines the **health care content**, which includes: procedures and methods of diagnosis, treatment and rehabilitation in order to prevent, control, early detect and treat diseases, injuries and other health disorders, which are covered by compulsory health insurance. Article 61 defines a set of services that **are not provided** in the health care system, and paragraph 22 does not include long-term care and home care in these cases, as well as care in a health institution and a social protection institution, which is primarily aimed at providing common personal care and recovery, i.e., for care and assistance in daily life activities such as assistance in walking, going to and getting out of bed, bathing, dressing, cooking, supervision of medications, and not intended to diagnosis, treatment or rehabilitation due to illness or injury. **People with disabilities are also exempt** from this article.

Law on Health Protection ⁵⁶

Article 11 of the Law envisages that the social care for health is guaranteed under the same conditions by providing the health care to groups that are at higher risk of morbidity and to socially vulnerable population, including people with disabilities and mentally underdeveloped persons. Article 19 refers to **the principle of access** to primary health care and physically, economically and geographically accessible to the citizens of the Republic

⁵⁶ Official Gazette RS, 107/2005, 88/2010 (see also Article 8), 99/2010, 57/2011 (see also Art. 46-47) and 119/2012. See: Art. 109. of the Law - 72/2009-193

of Serbia and Articles 20 and 26 introduce anti-discriminatory provision and **prohibit discrimination** in providing health services, among other things, on the basis of mental and physical disabilities, and provide equal access to health services without discrimination, among other things, with respect to the type of disease. Article 25 envisages that every citizen has the right to enjoy health care that involves the highest standards of **respecting human rights and values**, and Articles 27, 28, 29 and 30 guarantee patients' rights to information, to information on the disease, to **free choice of doctors** and procedures, to the **confidentiality of information**, as well as to **self-determination**. Article 35 determines that the **consent to undertake** medical measures against minors and persons deprived of legal capacity may be given by his/her legal representative (parent, adoptive parent or guardian). Article 36 envisages the right of a patient and the immediate family members to have **access** to medical records, and Article 37 envisages that information about health situation and human substance from which the identity can be determined are considered **confidential** and can not be given to other parties without the consent of the patient. Article 38 regulates the extremely sensitive issue of medical experiments. They can be carried out only on adult patients with legal capacity who have given consent to the experiment. A medical experiment can also be carried out on a minor, but only because of his/her immediate benefits, and with the consent of his/her legal representative previously informed. Article 39 regulates the patient's right to a **complaint** if he/she is denied the right to health care, if he/she is not satisfied with the health service or procedure of a health care worker or other worker of the health care institution. The complaint is filed to the Protector of patient rights of that institution. Article 88 determines that health activities at the primary level also includes **preventive health care** of groups exposed to increased risk, home health care visits, treatment and rehabilitation in the home, health care and rehabilitation of persons in social care institutions, rehabilitation of children and youth with disturbances in mental and physical development, mental health protection. Articles 98 and 99 prescribe that **primary** health care is realized through a selected physician in general medicine, pediatrics, dentistry and gynecology. Selected physician, among other things, conduct home treatment and palliative care, and treatment of patients who do not need hospital treatment.

Article 256 also envisages a fine of 300,000 to 1,000,000 dinars for medical facilities in cases of performing medical procedures on a patient against his/her will, not taking measures to protect the rights of patients, the failure to notify the competent court of placing people with mental illness

in an institution without his/her consent within 48 hours, and Article 259 envisages that the responsible medical worker in cases of performing medical procedures on a patient against his/her will and failure to notify the competent court of placing people with mental illness in an institution without his/her consent within 48 hours will be fined from 30,000 to 50,000 dinars.

Law on Transplantation of Tissue Cells⁵⁷

Article 7 regulates the **principles of accessibility and prohibition of discrimination** which are realized in a manner that provides equal opportunities for transplantation of cells and tissues to all recipients for whom it is medically justified, regardless of sex, religion, national origin, age, financial status, social status, political or other conviction, and only respecting ethical principles, as well as medical criteria for taking and giving cells and tissues. Article 22 envisages that cells, i.e., tissues can be transplanted to a minor without **legal capacity**, as well as an adult fully or partially incapacitated by a court decision only with the consent of his/her legal representative, i.e., guardian, provided that there is no express opposition of a minor who is older than 15 years of age, i.e., of the person with a partial legal capacity. The guardianship authority must agree with the written consent of the guardian referred to in paragraph 1 of this Article.

Strategy for the improvement of the situation of the people with disabilities 2007-2015⁵⁸

The general goal 3 indicates that, in addition to other services, **health services** based on the rights and needs of users, must be made available, in accordance with current internationally accepted methods of assessment of disabilities and needs, and Special goal 5 has a number of measures regarding **health care of persons with disabilities**, in particular: the comprehensiveness of health care prescribed by the Law on Health Care **without discrimination** as to their condition and disease, according to their needs, the realization of rights to modern **medical-technical devices**, that health care workers provide health care to people with disabilities, respecting all the patients' rights according to the Law on Health Care, that exist and that develops a rehabilitation programme for all groups of

⁵⁷ Official gazette of the Republic of Serbia, 72/2009

⁵⁸ Downloaded from <http://www.minrzs.gov.rs/sektor-za-zastitu-osoba-sa-invaliditetom-strategije.php> 09.03.2013.

persons with disabilities, based on **individual** needs. Special goal 10 is intended for **women with disabilities**, and only one measure tells about providing information on women's human rights (reproduction right) for women with disabilities.

Strategy for the continuous improvement of the quality of health care and patient safety (2009-2015)⁵⁹

The first strategic goal talks about creating conditions so **users / patients are at the centre** of the health care system, the special goal 1.3. talks about the improvement of the **availability and accessibility** of health care to vulnerable population groups (**particularly for OSI**) by providing quality standards through the identification of vulnerable groups, education of health care workers, an assessment of user needs, development of procedures for admitting and making technical and safety conditions in health care facilities for particularly vulnerable groups, especially people with disabilities.

Strategy for development of the mental health protection⁶⁰

It deals with mental disorders, behavioral disorders and promotion of mental health. There is a **non-discrimination** clause in the part of accessibility and equality regardless of gender, ethnicity, race, religion, age, educational level and social status, but it does not mention disabilities as a personal trait. The strategy has a part of the care for vulnerable groups including children, single mothers, the elderly, refugees, displaced persons who should have priority in the process of planning and organization of services, but again there is no specific mention of the OSI.

Regulation on the scope and the content of the health care of population⁶¹

Article 1 explains the scope, content and manner of implementation of the health care protection of groups of the population exposed to **increased risk** of morbidity and health care related to the prevention, control, early detection and treatment of the most common diseases of major social and medical importance, which also includes **people with disabilities**. Article 3, Item 6 refers to health care protection from **diseases that cause disabilities**

⁵⁹ Taken from <http://www.zdravlje.gov.rs/showpage.php?id=138> 10.03.2013.

⁶⁰ Taken from <http://www.zdravlje.gov.rs/showpage.php?id=138> 10.03.2013.

⁶¹ Official gazette of the Republic of Serbia, 43/93)

(neuromuscular diseases, multiple sclerosis, cerebral palsy ...), and includes the detection of disease, examination and treatment at an appropriate medical facility and at home, according to medical indications, preparation of medicines and orthopedic devices and aids to medical indications and determined disabilities. Article 7 envisages that **an uninsured handicapped and disabled person can get his/her health card** on the basis of the residence and proof of the determined handicap, i.e., disabilities.

Rulebook on voluntary health insurance⁶²

Article 12 envisages that the insurance provider is obliged to conclude an agreement on voluntary health insurance with all persons or for all persons for whom the contractor expresses a clear intention to close a contract on voluntary health insurance with that insurance provider, regardless of the risk to which the insured is exposed, regardless of age, sex and medical condition of the insured. Article 13 **prohibits the insurance provider** to request genetic information, i.e., results of genetic testing for certain hereditary diseases of the contractor, and Article 52 prescribes **fines** for insurance providers if they violate the provisions of Articles 12 and 13 of the Regulation.

Rulebook on the content and scope of the rights to health care under the compulsory health insurance and participation for 2013

Article 8 provides a set of rights to health care provided by **compulsory health insurance** which includes measures of prevention and early detection of disease; examinations and treatment of women in relation to family planning as well as during pregnancy, childbirth and motherhood to 12 months after birth; examinations and treatments in case of illness or injury; examinations and treatment of diseases of the mouth and teeth; medical rehabilitation in the event of illness or injury; medicines and medical devices; prostheses, orthoses and other assistive devices for walking, standing and sitting, aids to vision, hearing and speech, dental prosthetics, and other aids. Article 11 envisages **the right to a carer** to an insured person under 15 years of age as well as to an older person who is more severely physically or mentally disabled, i.e., to a person who during life due to illness or injury lost certain bodily or psychological functions because of which that person is not able to independently perform activities of daily living, including the blind, visually impaired as well as deaf

⁶² Official gazette of the Republic of Serbia, 108/08 i 49/09

persons during inpatient treatment and medical rehabilitation, and that it is medically necessary. Article 12 prescribes that the persons who **lost certain bodily or psychological functions** in the course of life due to illness or injury, because of which they are not able to independently perform activities of daily living and have the rights to someone else's care, have the right to an examination and treatment of diseases of the mouth and teeth. Article 15 regulates the right to medical-technical aids. Article 22 envisages that **the participation is not paid** by disabled veterans, peacetime military invalids and civilian invalids of war; blind persons and permanently handicapped persons, as well as persons entitled to an allowance for assistance and care of another person. Article 23 envisages that the health care from the mandatory health insurance funds in full amount **without co-payments** is provided to persons who acquired the capacity of an insured person as a person with disabilities, according to the regulations on pension and disabilities insurance, as well as mentally underdeveloped persons.

Regulation on medical rehabilitation in inpatient health care facilities specializing in rehabilitation.⁶³

This regulation establishes the types of indications, duration, method and procedure, as well as referral to **medical rehabilitation** in inpatient medical institution specializing in the rehabilitation of ill and injured insured persons of the Republic Health Insurance Fund paid by the compulsory health insurance (Article 1). Article 2 states the reason for medical rehabilitation as follows: **improvement or restoration of lost or damaged functions of the body** as a result of acute illness or injury, worsening of chronic illness, medical interventions, congenital anomalies or **developmental disorders**. There is also **Extended rehabilitation** provided as a continuous extension of treatment and rehabilitation, when the functional disturbances cannot be mitigated or eliminated with equal efficiency in the out-patient-polyclinic conditions and within the hospital treatment of the underlying disease (Article 3), as indications for obtaining this kind of rehabilitation. In addition to other types of illnesses Article 4 also states neurological disorders, rheumatic diseases and injuries and diseases of the locomotor system. The same Article explains that extended rehabilitation is conducted as medically indicated therapeutic procedures

⁶³ ("Official Gazette RS", No. 47/2008, 69/2008, 81/2010 (also see Article 14), 103/2010, 15/2011, 48/2012 abd 55/2012

or as prevention of deterioration, i.e., complications of certain chronic diseases.

Regulations on medical-technical aids that are provided from the funds of the compulsory health insurance⁶⁴

This regulation governs the types of medical-technical aids, indications for prescribing aids provided to insured persons by the Republic Health Insurance Fund from the funds of the compulsory health insurance, standards of materials used to manufacture aids, expiration dates of aids, i.e., procurement, maintenance and renewal of aids as well as the way and procedure for exercising the rights of the insured persons to aids (Article 1), and other articles list which aids and under what conditions can be obtained.

Local level

It is difficult to obtain information about local documents regulating the health care field, but some municipalities have a strategy of health care, dealing mainly with prevention of health of the local population. So let's say that there is a **Strategy of the development of the primary health care of the town of Kragujevac for the period 2011-2014**, which also states, in addition to standards at the national level, the need to build access ramps for people with disabilities in all primary health care facilities, education of personnel for working with particularly vulnerable groups, provision of mobile equipment, creating services customized to these groups and creating custom printed materials. It is evident, however, that the disabilities language closer to the medical approach was used in writing the Strategy. It is also interesting that in entire Vojvodina, for example, there is only the **Strategic plan of the Health Center Novi Sad from 2011 to 2015** including concrete actions which will be implemented at the city level and that do not distinguish particular activities related to the health of people with disabilities.

3.3.2. INSTITUTIONAL FRAMEWORK

National level

The Ministry of Health performs tasks of the state administration related to: the health care system; system of compulsory health insurance, other

⁶⁴ ("RS Official Gazette", Nos. 52/2012, 62/2012, 73/2012, 1/2013 and 7/2013

forms of health insurance and health insurance contributions; more precise regulation of rights under the health insurance; participation in the preparation and implementation of international agreements on compulsory social insurance, and other activities.

Republic Health Insurance Fund - RHIF is an organization for mandatory social insurance where the rights of compulsory health insurance are exercised and the funds for compulsory health insurance are provided in accordance with the law.

Institutional framework at the provincial and local level

Secretariats of Health at provincial and city (municipal) level monitor the health status of the population and of work of health services in their territory, and they also see to the implementation of the identified priorities in health care; they deal with creating conditions for accessibility and equalization of use of primary health care in their territory; they coordinate, promote, organize and direct the implementation of health care that is realized through the activity of bodies of local self-government, citizens, companies, social, educational and other institutions and other organizations; they provide funds for the realization of the founding rights over health institutions whose founders they are.

In accordance with the policy of decentralization, local self-governance takes care of the health institutions on their territory, primarily to provide funds for technical maintenance of buildings and the purchase of necessary equipment.

At the local level health care for the population is implemented through four regional centres in Belgrade, Novi Sad, Kragujevac and Nis. In these centres, there is a network of health care institutions of all levels of care (health centres, clinical centers, special hospitals ...). Within certain health centres, since 2000 there has been the **Service of Home Treatment and Health Care**, which provides services in the field immobile and semi-mobile patients, cancer patients and patients who are discharged from hospital.

Health institution

According to the Law on Health Care, care for the health of citizens of Serbia is performed at three levels: *primary, secondary and tertiary*.

Institutions at the primary level:

A **Health Centre** (116 independent and 42 as a part of health centres) is a health care institution where the lowest preventive health care for all categories of residents is provided, emergency medical care, general practice, health care for women and children, home visiting, as well as laboratory and other diagnostic .

Institute (16 at the primary level) is a medical institution that provides health-care activities at the primary level and implements health care of certain groups of the population, i.e., health activities in certain areas of health care such as the protection of students, of workers, emergency medical aid, etc.

Institutions at the secondary level:

Hospital (*General* - 16 independent and 24 as a part of health centres, *special* - 20 for acute and chronic conditions and 17 for rehabilitation) is a medical institution that performs health-care activities as a rule as a continuation of the diagnosis, treatment and rehabilitation in a health center, i.e., when due to the complexity and severity of the disease special conditions in terms of personnel, equipment, accommodation and medicine are needed.

Institutions at the tertiary level:

Clinic (6 in Serbia) is a medical institution that performs highly specialized consulting and in-patient health care from a particular branch of medicine or dentistry.

Institute (one in Serbia) is a medical institution that performs highly specialized consulting and in-patient health care activity, or only a highly specialized consulting health activity in one or more branches of medicine or dentistry, as well as educational and research activities.

Clinical - hospital (4 in Serbia) is a medical institution that performs highly specialized specialist consultative inpatient health care activity at the tertiary level in one or more branches of medicine.

Clinical centre (4 in Serbia) is a medical institution that combines activities of three or more clinics, so that makes a functional unit, organized and qualified to successfully perform the duties and tasks relating to: 1) performing highly specialized specialist and consulting and inpatient health care activities; 2) educational and teaching activities; 3) scientific research.

Institutions at multiple levels are:

Institute of Public Health, **Institute of Occupational Medicine**, **Institute of Forensic Medicine**, **Institute of Virology, Vaccines and Sera**, **Institute of Antirabies Protection**, **Institute of Psychophysiological Disorders and Speech Pathology** (which performs outpatient and inpatient health care activities in the field of speech disorders, monitors and studies the situation developmental disorders, hearing impairment in children and adolescents and speech disorders of people of all ages, as well as the blind and visually impaired preschool children), **Institute of Public Health of Serbia "Dr Milan Jovanovic Batut"**, **Institute for Biocides and Medical Ecology**.

In addition to the above mentioned institutions in Serbia, there are also 34 developmental counseling centres for children born with developmental disabilities and they provide multidisciplinary support.

Medical rehabilitation

In Serbia, citizens have access to physical medicine and rehabilitation treatments in the Departments of physical medicine and rehabilitation in clinical centres, military hospitals, general and orthopedic hospitals, dispensaries and non-institutional services of physical medicine and rehabilitation in health centres, spas, institutes for geriatrics and chronic diseases, also dispensaries at private clinics. Rehabilitation centres and clinics located in hospitals or spas are best-equipped and with the largest number of employees. There are also special units for medical rehabilitation at the Military Academy in Belgrade.

3.3.3. IMPLEMENTATION ANALYSIS

Data from the surveys of various civil society organizations

Research on quality of life of women with disabilities in Vojvodina⁶⁵ carried out in 2011 by the organization ...IZ KRUGA – VOJVODINA showed that women with disabilities see inaccessibility of services as the biggest barrier in realization of health care. In addition, the respondents also indicate both insensitivity and ignorance of the social model by the health care workers. Campaigns intended for prevention are mostly completely inaccessible to women with sensory disabilities, most videos, flyers, posters, which should appeal to health care are not subtitled and written in Braille. The main conclusion when talking about the state of health care at the local and

⁶⁵ <http://www.izkrugavojvodina.org/publikacije/218-istraivaki-izvetaj-o-kvalitetu-ivota-ena-sa-invaliditetom-u-vojvodini>

provincial level is that there is a huge gap between the legal framework and institutions in the health sector.

Survey and focus groups

All respondents pointed out the same problems in accessing health care. They are related to the inability to have all types of examinations performed due to the technical equipment level of health institutions, especially for people with a high degree of physical impairment, inability for mammography examination, too high examination tables, lack of trained staff as well as the fact that the majority of inpatient health care facilities do not meet the minimum standards of accessibility.

„I recently had some health problems and I was supposed to give immediately urine, the toilet was completely inaccessible, i.e., a Turkish closet and it was impossible for me. Can't clinical centres, health centres have a toilet for disabled people, does it cost so much?“

“Procedures are sometimes too long and complicated, e.g. in order to replace a wheel on a wheelchair you need to have a referral of a GP, and to have an opinion of two specialists, then this opinion is referred to the Health Insurance Fund for approval, and then the approvals are taken to the provider. Unless you can do all of this on your own, and even if you can, you still miss a wheel on your wheelchair and someone needs to do it for you.

The respondents characterize the behavior of health care workers as: fair, good, kind ... but it was noticed that in 80% of cases, they turn to a companion or personal assistant of a person seeking a medical service. Most of them are still nice, and all that mainly depends from person to person. They pointed out that the health care workers of general course do not know the characteristics of certain types of disabilities and they use inadequate terminology.

3.3.4. Conclusion

Analysis of the legislative framework in the field of health care for persons with disabilities and its application in practice showed that there is a large discrepancy between the two. On the one hand, there is the existence of a large number of anti-discrimination provisions and established rights, and

on the other hand there is the existence of apparent discrimination against persons with disabilities in the use of health care and the impossibility to exercise those rights.

Analysis of the implementation of the legal framework has shown that people with disabilities recognized all the difficulties they face in realizing their rights to health care, especially architectural and communication barriers, inadequate medical equipment and inadequately trained medical personnel. They did not recognize as discrimination, i.e., there was not a single example of any of the health workers who refused to give them the service because of their disabilities. They did not recognize as discrimination the fact that there is no ramp to access a medical institution, the fact that they could not use X-rays, mammography and other medical devices, or have a sign interpreter.

The Regulation on medical rehabilitation in inpatient health care institution specializing in rehabilitation, the Regulation on medical and technical aids provided from the funds of the compulsory health insurance and the List of medications given on prescriptions were the most criticized among the legislative solutions.

3.4. EMPLOYMENT

3.4.1. LEGISLATIVE FRAMEWORK

Definition of a person with disabilities

There is not a single definition of a person with disabilities in the Serbian legislation, but the concept of a person with disabilities is defined differently in different acts, depending on the area to which the law refers. In the case of employment it is the Professional Rehabilitation and Employment of Persons with Disabilities Act (Article 3), which defines a person with disabilities as a person with permanent consequences of physical, sensory, mental or emotional impairment or disease that can not be cured by medical treatment or rehabilitation, which faces social and other constraints affecting his/her working capacity and the employment opportunity or maintaining employment, and which has no opportunity or has reduced opportunity to get included, under equal conditions, into the labor market and to compete for employment.

The Law on Pension and Disabilities Insurance is also relevant (Article 21). It does not speak directly about the persons with disabilities but about disabilities defining them as a condition that exists when the insured suffers complete loss of working capacity, i.e., when a professional military person suffers complete loss of ability for military service due to changes in health condition caused by an injury at work, occupational disease, injury outside of work or illness, which can not be cured by medical treatment or rehabilitation.

Based on these definitions, we can conclude that the definition given in the Law on Professional Rehabilitation and Employment of Persons with Disabilities complies with the UN Convention on the Rights of Persons with Disabilities and emphasizes the social nature of disabilities, while the Law on Pension and Disabilities Insurance is based on the medical model and completely ignores the social context of disabilities which deviates from the UN Convention on the Rights of Persons with Disabilities.

Anti-discrimination regulations

Since the Convention itself under Article 27.1 in detail specifies the discrimination in the work context, the issue of protection against discrimination will be in more detail dealt with in the section relating to the assessment of compliance of the said paragraph of the Convention, and the articles regarding the very definition of discrimination in employment will be mentioned in the following part:

Labour Code, Article 18, prohibits direct and indirect discrimination against persons with respect to health status, i.e., disabilities. Article 19 defines direct discrimination as any action caused by any of the grounds referred to in Article 18 of this law by which a person seeking employment, as well as an employee, is placed at a disadvantage compared to other people in the same or similar situation, and in terms of this Law an indirect discrimination exists when an apparently neutral provision, criterion or practice puts or would put at a disadvantage a person seeking employment, as well as an employee, due to a certain quality, status, affiliation or belief under Article 18.

Legislative framework in the field of employment

The Constitution of the Republic of Serbia

The Constitution of the Republic of Serbia⁶⁶, as the most general act prohibits discrimination against all citizens, and particularly emphasizes the prohibition of discrimination against persons with mental or physical disabilities (Article 21). For persons with disabilities, the Constitution provides for the possibility of special protection at work and special working conditions (Article 60).

Labour Code

The Labour Code⁶⁷ of 2005 determines the position of people with disabilities in the labour market on a very general level. In addition to prescribing equal conditions for all, Articles 18 and 19 prohibit direct and indirect discrimination against persons who are seeking employment who are employed, including people with disabilities, and Article 273 prescribes a maximum fine in cases of discrimination. At a general level, this law also envisages the right to special protection for persons with disabilities (Article 12) and protects the rights of disabled workers (Article 101).

Law on Professional Rehabilitation and Employment of Persons with Disabilities

The Law on Professional Rehabilitation and Employment of Persons with Disabilities⁶⁸ represents the law that more closely regulates the position of persons with disabilities in the labour market. This Law with the accompanying regulations determines the incentives for employment in order to create conditions for equal participation of persons with disabilities into the labour market, the assessment of working capacity, professional rehabilitation, obligation to employ persons with disabilities under the quota system, the conditions for the establishment and performance of activities of enterprises for professional rehabilitation and employment persons with disabilities and other special forms of employment and working engagement for people with disabilities as well as other issues of importance for professional rehabilitation and employment of persons with disabilities. The Law introduces the obligation to employ persons with disabilities under the quota system, whereat other

⁶⁶ "Official Gazette RS", No. 98/2006

⁶⁷ "Official Gazette RS", No. 24/2005, 61/2005 i 54/2009, 32/2013

⁶⁸ "Official Gazette RS", No. 36/2009, 32/2013

ways of carrying out the obligations of employment of people with disabilities other than direct employment are left as a possibility.

Other legal acts

The Regulation on more detailed conditions, criteria and standards for the implementation of measures and activities of professional rehabilitation⁶⁹, the Regulation on more detailed manner, the cost and the criteria for assessing working capacity and employment opportunities or maintenance of employment of people with disabilities⁷⁰, the Regulation on the method of monitoring the execution of duties of employment of persons with disabilities and the way of proving the realization of these duties⁷¹, the Regulation on the method and procedure for the calculation and payment of contributions for compulsory social insurance for persons with disabilities⁷², the Regulation on education and method of work of the expertise of the Republic Pension and Disabilities Insurance Fund⁷³, Strategy for Improvement of the position of the persons with disabilities in the Republic of Serbia⁷⁴.

Legislation in Serbia presented by paragraphs of Article 27

In order to allow assessment of compliance of national legislation with the Convention on the Rights of Persons with Disabilities, the presentation of legislation is organized on the basis of Articles 26 and 27 of the Convention on the Rights of Persons with Disabilities, which contain several paragraphs regarding various aspects of hiring OSI, and the following analysis is given by paragraphs of Article 27.

Right to work (Article 27.1)

The Regulation on more detailed manner, the cost and the criteria for assessing working capacity and employment opportunities or maintenance of employment of people with disabilities in Article 16 deprives persons who were assigned the 3rd level of working capacity on the basis of expert assessment, of the possibility of employment in the open labour market. Even though these people cannot sign a contract of employment, they may

⁶⁹ „RS Official Gazette“, no. 112/2009

⁷⁰ „RS Official Gazette“, no. 36/2010

⁷¹ „RS Official Gazette“, no. 33/2010

⁷² „RS Official Gazette“, no. 72/2006

⁷³ „RS Official Gazette“, no. 59/2008 and 75/2008

⁷⁴ „RS Official Gazette“, no. 1/2007

be employed in the working centers, which represent a working therapeutic activity, i.e., long-lasting form of professional rehabilitation (Article 43). That person does not earn money on the basis of his/her work through working engagement but he/she receives financial assistance under Article 21 of this Law. Although the Labour Code does not say anything about the employment of persons with disabilities who are completely deprived of their working capacity, pursuant to the Family Act⁷⁵ (Article 146) persons who have been deprived of the working capacity are legally equated with younger juvenile, and thus they are completely denied access to the open labour market.

Prohibition of discrimination on grounds of disabilities (Article 27.1a)

Article 21 of the Constitution and Articles 18 - 20 of the Labour Code prohibit direct and indirect discrimination against persons with disabilities in relation to employment conditions and selection of candidates for a particular job, working conditions and rights from employment, training and development, promotion at work and termination of the contract of employment. The Law on Prevention of Discrimination against Persons with Disabilities in the part of the discrimination in respect of employment and labour relations (Article 21-26) prohibits discrimination both against a person with disabilities and against the carer/care provider of a person with disabilities (Article 21). In this context, the discrimination in employment is considered a refusal to employ a person with disabilities or his/her carer, setting specific health requirements for hiring unless they are determined in accordance with the Law, the previous verification of psychophysical circumstances that are not directly related to the activities because of which a person is employed, the refusal to perform the technical adaptation of the workplace if the cost is not borne by the employer or are not disproportionate to profit (Article 22), the determination of lower salary, setting special working requirements and special conditions for use of other employment rights for an employee with disabilities (Article 24).

The right to equality with others in the work process (Article 27.1b)

The right to equal pay is regulated in the Labour Code (Article 104) and in the Prevention of Discrimination against Persons with Disabilities Act, setting lower salaries due to a disabilities of the employee, regardless of performance (Article 24) is considered discrimination. The right to safety,

⁷⁵ „RS Official Gazette“, no. 18/2005

protection of life and health at work are prescribed by Article 60 of the Constitution, Articles 12, 16 and 80 of the Labour Code. Article 8 of the Law on Amendments to the Law on Professional Rehabilitation and Employment of Persons with Disabilities, the company for professional rehabilitation and employment of persons with disabilities can also be provided funds for the improvement of working conditions. The Laws define different mechanisms for the elimination of injustices described in more detail in the analysis of paragraph 2 of this Article.

The right to form trade unions (Article 27.1c)

In any way the Laws do not prevent people with disabilities to form their union, or participate in the work of trade unions, whereat the establishment of trade unions is regulated by the Regulation on the registration of trade unions in the registry⁷⁶. Based on this we can conclude that the domestic legislation complies with this position and that allows people with disabilities unionization.

The right to effective access to training programmes and career counseling (Article 27.1d)

Training programmes and career counseling are regulated in the Law on Professional Rehabilitation and Employment of Persons with Disabilities as well as measures and activities of professional rehabilitation and they include various programmes of additional trainings and re-trainings, improvement of working and working and social skills and abilities of working and social integration, career guidance and information, etc. (Article 13).

The right to stimulate employment opportunities and career advancement (Article 27.1e)

Pursuant to the Regulation on more detailed requirements, criteria and standards for the implementation of measures and activities of professional rehabilitation, the indirect support in finding a job exists through the development of an individual plan of employment of people with disabilities who are contracted between the NES and the persons with disabilities (Article 5). The support to people for career advancement, preservation and return to work is conceived in the framework of the mechanisms of maintenance and rehabilitation.

⁷⁶ „RS Official Gazette“, no. 50/2005 and 10/2010

The right to self-employment and entrepreneurship (Article 27.1f)

National Employment Office invites tenders regarding the allocation of subsidies for self-employment to unemployed people⁷⁷. Self-employment subsidies are paid in a lump sum, provided that the person performs a registered activity for at least 12 months.

The right to employment in the public sector (Article 27.1g)

Pursuant to the Regulation on the Method of Monitoring the Performance of Obligations of Employment of Persons with Disabilities and the Method of Proving the Execution of these Duties (Article 8), for the direct and indirect budget users whose pay is provided from the budget of the Republic of Serbia, the obligation to employ persons with disabilities may be carried out by the Republic of Serbia, in addition to other ways, by allocation of funds in the budget for the current year for the purposes of reimbursement of salaries of persons with disabilities employed in enterprises for professional rehabilitation and employment of persons with disabilities, for improvement of working conditions, for improvement of production programmes and for other purposes. Although the quota system also applies to the budget users, they themselves do not have to fulfill the obligation to employ persons with disabilities, but their duty of employment can be fulfilled by the state through allocation of adequate funds in the budget for the current year.

The right to employment in the private sector (Article 27.1h)

The Law on Professional Rehabilitation and Employment of Persons with Disabilities introduces the obligation to employ persons with disabilities for each employer that has at least 20 employees while an employer who has 20 to 49 employees is required to employ one person with a disabilities, an employer who has 50 or more employees is required to employ at least two people with disabilities, and one person with disabilities per every next started 50 employees (Article 24). Pursuant to Article 25 of this Law, a newly established employer does not have the obligation to employ persons with disabilities, regardless of the number of workers, for a period of 24 months from the date of foundation. Employment is also encouraged by a subsidy of the salary up to 75% of the total cost of the salary and up to the amount of the minimum salary, for a disabled person with no work

⁷⁷ Public announcement available at:

http://www.nsz.gov.rs/live/digitalAssets/0/550_samozaposljavanje_u_2013_godini.pdf, data taken on 09. 04. 2013.

experience for a period of 12 months, pursuant to Article 32 and Article 6 as well as the incentives for adaptation activities. An employer also can carry out his/her obligation to employ persons with disabilities, in addition to direct employment, in one of the following ways: (1) participating in the financing of salaries of persons with disabilities employed in the company for professional rehabilitation and employment of persons with disabilities or social enterprise or organization, in amounts of 50% of the average salary per employee in the Republic of Serbia, (2) carrying out financial obligations from the business and technical cooperation agreement, purchasing products or providing services to the company for professional rehabilitation and employment of persons with disabilities in the amount of 20 average salaries per employee in the Republic of Serbia according to the latest published data of the republic authority in charge of statistics at the time of closing the contract. Inspection supervision over the enforcement of the law is conducted by the ministry competent for the employment activities (Article 46), and the control of the fulfillment of the obligations of employment and payment of 50% of the average salary in the Republic of Serbia if an employer has not fulfilled his/her employment obligation is conducted by the Tax Administration pursuant to Article 47 of this Law and to Article 10 of the Law on Amendments to this Law.

Right to safe and adapted workplace (Article 27.1i)

Adaptation of the workplace is supported by the Law on Prevention of Discrimination against Persons with Disabilities, its Article 22, which defines discrimination as a refusal to make technical adaptations to the workplace that enable efficient work of a person with disabilities, if the cost of adaptation is not borne by the employer and are not disproportionate in relation to the profit that the employer makes by employing a person with disabilities. Article 11 of the Law on Professional Rehabilitation and Employment of Persons with Disabilities defines the provision of technical, professional and financial support for adaptation of jobs, workplaces or business and the workplace as an incentive for employment of persons with disabilities. The employer also has the option of reimbursement of appropriate costs to adapt the workplace in order to employ a person with disabilities who are employed under special circumstances (Article 31).

The right to acquire work experience in the open labour market (Article 27.1j)

The state does not envisage special incentives to support persons with disabilities in gaining work experience in the open market through employment. However, NES realizes programmes of professional training apprenticeship designed for unemployed people who are registered with the NES, and who are professionally trained for the first time for the profession for which they have acquired a certain type and level of qualification.

Right to programmes of vocational and professional rehabilitation (Article 27.1k)

The State supports rehabilitation programmes in various ways, through the establishment of the Budget Fund for rehabilitation and promotion of employment of persons with disabilities on the basis of the Law on Professional Rehabilitation and Employment of Persons with Disabilities (Article 28), and through direct support and protection of labour rights of persons with disabilities attending rehabilitation programmes. Article 20 of the Law envisages that employees with disabilities have the right to paid leave from work, with compensation of the salary in the amount of 100% of the average salary earned in the last three months prior to inclusion in the measures and activities of professional rehabilitation, and the employment of the employee cannot be terminated during rehabilitation. An unemployed person with disabilities can also realize a compensation in the amount of 20% of the minimum salary and transportation costs for himself/herself and his/her carer, if the professional rehabilitation is taking a minimum of 100 hours, if a person with a disabilities is not a user of financial compensation on the basis of unemployment and activities professional rehabilitation relating to the activities referred to in Article 13, paragraph 2, 3 and 7).

Right to different ways of reacting in the event of violations of labour rights (Article 27.2)

If discrimination occurs, according to the Labour code a person with disabilities who is employed or seeking employment can initiate the procedure for damage compensation before the competent court (Article 23). In addition to that, on the basis of the Law on Prevention of Discrimination against Persons with Disabilities, a person with disabilities or his/her legal representative, i.e., carer may file a lawsuit (Article 42) and seek a temporary prohibition of a potentially discriminatory action in order to eliminate the effects of discriminatory treatment, establishing that the

defendant treated the plaintiff in a discriminatory manner, compensation of material and non-material damages (Article 43, Article 45).

Important aspects of labour legislation not directly related to Article 27

Evaluation of working capacity

Article 27 does not comprise the assessment of working capacity as an important aspect of labour legislation, so it is additionally analyzed. A person with disabilities needs to have his/her working capacity assessed as well as the possibility of employment or maintaining employment so that person could participate in programmes of maintenance and rehabilitation, and general employment of persons with disabilities. Pursuant to the Law on Professional Rehabilitation and Employment of Persons with Disabilities, Article 8, working capacities and opportunities for persons with disabilities that are necessary for integration into the labour market and job performance are subject of assessment.

Pursuant to Article 9 of the Law, the Decision on assessed work ability and possibility of employment or maintenance of employment is passed by the NES, based on the findings, opinions and assessments of working capacity and the possibility of employment or maintaining employment. Pursuant to Article 4 of the Regulation on more detailed manner, the cost and the criteria for assessing working capacity, the working capacity and the possibility of employment or maintenance of employment is assessed by the Commission of Expert Authority of the Republic Pension and Disabilities Insurance Fund. The very form of the final assessment is determined pursuant to Article 16 of the Regulation through the four-level scale:

Level 0- the difficulties and obstacles are minor and do not affect the working capacity;

Level 1 - the difficulties and obstacles are small and affect the working capacity in relation to profession and jobs that a person can perform, the employment is possible under the general conditions;

Level 2 - the difficulties and obstacles are moderate or substantial and affect the working capacity in relation to profession and jobs that a person can perform and the employment is possible under special conditions;

Level 3 - the difficulties and obstacles are moderate or complete or multiple, and affect the working capacity to a measure that the

performance is less than one third of the performance of the employee in the normal workplace and such person shall not be employed or hold an employment under general or under special conditions.

In this way, by the assessment of working capacity, the people with the assessed third level are denied access to the open labour market, and such person may be engaged in work only under the special forms of employment

Special forms of employment

The Law on Professional Rehabilitation and Employment of Persons with Disabilities envisages three distinct forms of employment, i.e., of engagement of persons with disabilities: the company for professional rehabilitation and employment of persons with disabilities, work centers, social enterprises and organization (Article 34).

Companies for vocational rehabilitation of OSI employ and perform professional rehabilitation of persons with disabilities (Article 35). The Law envisages that the company must employ at least 5 persons with disabilities for indefinite period of time (Article 36). Pursuant to Article 7 of the Law on Amendments of the Law on Professional Rehabilitation and Employment of Persons with Disabilities⁷⁸, a company for professional rehabilitation and employment of persons with disabilities is entitled to a monthly salary subsidy for every employed person with a disabilities equal to 75% of the total costs of salary with the pertaining contributions for social insurance, but not more than 50% of the average salary per employee in Serbia.

A Work Center provides working engagement as a working therapeutic activity and represents a long-term form of professional rehabilitation of persons with disabilities who can not be employed or maintain an employment under the general or special conditions, i.e., whose performance is less than one-third of the performance of an employee in the regular workplace (Article Rehabilitation and Employment Promotion of Persons with Disabilities. The Ministry 43), and provided that it hires at least 5 people with disabilities and that persons with disabilities make up at least 80% of the working personnel or employees. According to the same

⁷⁸ „RS Official Gazette“, no. 32/2013

Law, persons with disabilities who have the level 3 of the assessment of working capacity and persons deprived of their legal capacity, can also be engaged by other employer, i.e., on the open labour market through the Work Center (Article 43).

A Social enterprise is a company that was established to carry out activities that is focused on meeting the needs of persons with disabilities, and that it employs at least one person with disabilities, regardless of the total number of employees (Article 45).

3.4.2. INSTITUTIONAL FRAMEWORK

- 1. Ministry of Labour, Employment and Social Policy** has different responsibilities in the implementation of the Law on Professional Rehabilitation and Employment of persons with Disabilities and generally in employment of persons with disabilities. The Ministry also manages the Budget Funds for Professional also issues various permits and based on data received from the Tax Administration it monitors the execution of and recommends to the ministry responsible for finance the funds required for the execution of duties of employment of persons with disabilities in the Republic of Serbia
- 2. National Employment Service (NES)** - participates in organizing, planning and implementing the measures of professional rehabilitation and measures of active policy aimed at increasing motivation, employment and self-employment of persons with disabilities, as well as in the process of assessment of working capacity, it proposes committee members for assessment of working capacity and brings The decision on the assessment of working capacity and the possibility of employment or maintaining employment. For these tasks the **Center for Professional Rehabilitation and Employment of Persons with Disabilities** was founded, as a separate organizational unit in Belgrade, as well as two regional centers, which only deal with these activities.
- 3. Republic Pension and Disabilities Insurance Fund** is responsible for the formation of the Commission expert body of the Republic Pension and Disabilities Insurance Fund and it brings Findings, Review and Assessment of Working Capacity and the Possibility of Employment or Maintenance of Employment;

4. **Ministry of Health**, together with the ministers responsible for pension and disabilities insurance and the minister responsible for employment activities prescribes a more detailed manner, the cost and the criteria for assessing working capacity and possibility of employment and maintaining employment;
5. **Ministry of Education**, responsible for the accreditation of professional and vocational rehabilitation;
6. **Health centre and other health care institutions** through the chosen doctor give proposals for determining disabilities, propose committee members for assessing working capacities, provide the necessary medical records and psychological findings of the assessment of mental abilities, personality and behaviour of individuals. Institute of Occupational Medicine "Dr Dragomir Karajović" or the Institute of Health Care of Workers are involved in case of the expertise of occupational diseases and assessment of permanent consequences caused by accidents at work.

3.4.3. COMPLIANCE WITH THE CONVENTION

The legal framework of the Republic of Serbia is fully compliant with almost all positions of the Convention, i.e., it guarantees persons with disabilities equality with others in the labour market and prohibits discrimination against persons with disabilities in the work process and employment. Different training programmes are prescribed for persons with disabilities, the career counseling and rehabilitation programmes, the self-employment programmes are available to them and by introducing the quota system, the support for adapting workplaces and other benefits the government strongly encourages the employment of persons with disabilities. Different ways of reacting in case of violation of their labor rights are available to persons with disabilities and laws protect them from forced labour and servitude or slavery-like conditions.

The legal framework in Serbia partially complies with the positions that speak of the right of public sector employment and the right to acquire work experience in the open labor market Domains in which it is possible to further improve laws so they fully comply with the Convention on the Rights of Persons with Disabilities are:

- Article 27.1 - ensuring the availability of the right to work of all persons with disabilities. Although the vast majority of persons with disabilities is recognized the right to work, as defined in the Convention on the Rights of Persons with Disabilities, persons with disabilities who have been deprived of their legal capacity, either at the request of family members or the center for social work, and who are assessed with the level 3 of working capacity are unable to make their living by doing jobs freely chosen or accepted in the labour market, and the open labour market is not available to them.
- Article 27.1a, which is primarily related to the prohibition of discrimination against persons with disabilities. Although laws generally prohibit discrimination against persons with disabilities in all phases of the work process, it is not completely clear what actions are discriminatory, especially as the interpretation of discrimination is associated with the rationalization of costs.
- Article 27.1g, which is related to the employment of persons with disabilities in the public sector. Although the Law on Professional Rehabilitation and Employment of Persons with Disabilities is also applied to the Republic of Serbia, as an employer, and it is required to fulfill the obligation of employment, according to the Regulations on monitoring the execution of duties of employment of persons with disabilities and the manner of proving the execution of the duties, the state fulfills its obligation of employment through allocation of the funds in the budget for the current year, and if the funds allocated in the budget for that year are lower than the needed, for the next year the planned funds are increased for at least the amount of the difference. Thus, the direct and indirect budget beneficiaries are put in a more favorable position in relation to other taxpayers. This solution contained in the bylaw sends a bad message to other employers because the state as an employer uses the opportunity to avoid this obligation through the payment of funds instead of giving an example to other employers by employing persons with disabilities in public bodies.
- 27.1j gaining experience in the open labour market. Although there are programmes for acquisition of practices organized by the NES, there is no incentive for gaining work experience in terms of employment and acquiring years of service.

A special issue is issue of the special forms of employment, which, as forms of permanent employment, i.e., working engagement, do not comply with the Convention on the Rights of Persons with Disabilities, which recognizes only the employment of persons with disabilities in the open labour market. However, these forms of employment and working engagement play an important role for persons with disabilities as a preparation for the full participation of persons with disabilities and their full integration into society, and it is necessary to consider well their role in the system of employment of persons with disabilities.

3.4.4. IMPLEMENTATION ANALYSIS

Analysis of the application of legal norms in practice was done through a survey and topics which were addressed during the work in the focus group. These findings should be considered in the context of the limitations of the sample of organizations of the OSI, i.e., of the individual representatives who participated in the study, and therefore any interpretation on the basis of the above was carried out with caution, and the conclusions and recommendations that are in this report indicate illustrative and important segments of practices.

Almost all respondents (88.9%) are aware that there are laws governing special assistance for persons with disabilities in the process of employment and work. Although the Law on Professional Rehabilitation and Employment of Persons with Disabilities largely complies with the UN Convention, even 88.9% of respondents believe that the OSI do not have equal opportunities to find work in the open labour market as other citizens, i.e., the current application of the law does not enable a realistic availability of the right to work for persons with disabilities. As the main reasons for this, representatives of the OSI see prejudice, stereotypes and general discrimination against the OSI as workers. Fewer respondents also mention, as barriers, insufficient accessibility of the community, low education of persons with disabilities, as well as the economic crisis and the low rate of employment in general. In addition to these barriers, they also indicate following barriers: lack of adaptation of working places; there are no clear plans for hiring OSI; lack of interest of employers to hire OSI; poor family support; party ineligibility. However, even 88.3% of SCOs representatives of the OSI believe that if discrimination against the OSI

occurred in the labour market, the OSI could realize their rights through the mechanisms provided for by law.

A position was put forward that the OSI often do not recognize that their rights have been violated, and even when they recognize it, they cannot obtain witnesses, they are afraid of losing their job and they do nothing about that issue, and when a procedure is initiated, it takes a long time. One of the concrete ways to manifest discrimination is hiring for positions that are less valued in relation to competence, which is the impression of 55.6% respondents. However, this must be interpreted in light of the fact that the majority of the OSI who are employed have a primary or incomplete primary school, and their employment at least lowest paid jobs is in accordance with their competencies.

Representatives of the OOSI believe that the assessment of working capacity is superficial and does not recognize the abilities and possibilities of OSI, but it is more bureaucratic and formal. The assessment is not personalized even at the level of recognition of how different types of disabilities affect the ability of an OSI to perform various tasks. In line with this, 83.3% of respondents consider that the assessment of working capacity does not reflect what the OSI can do. The respondents see an extension of the Commission or the assessment of work skills in a real working environment as basic ways to improve the assessment of working capacity.

As far as the support of the National Employment Service is concerned, 38.9% believe that the support is good or mostly good, but even 33.3% expressed strong dissatisfaction with the NES. The fact that the employees of the NES always try to find a job for the OSI is indicated as a good side of its work as well as that various programmes related to employment of the OSI are carried out, and it is highlighted that they are well informed by the NES about employment opportunities, job vacancies. Negative evaluations are related to the low funds that are designated to support the employment of the OSI, and generally that NES primarily acts as a broker or works on a campaign bases through the competitions, and that there is no continuous support

The UN Convention does not recognize the special forms of employment of persons with disabilities, which are widespread in Serbia but two-thirds of respondents believe that these special forms of employment should not be abolished. A position was put forward that the right to work in the open

labour market is not available at all to the persons with the estimated third level of working capacity and the persons deprived of their legal capacity.

The OOSI make recommendations for improving employment as follows:

1. Improving education of the OSI, programmes for additional training and retraining, but also the educational system in general;
2. Improving accessibility to workplaces as well as the possibility of communication of the OSI in the workplace;
3. Increasing the number of trained work assistants;
4. Increasing the availability of the orthopedic aids and assistive technology in general;
5. Improving the knowledge of the OSI about the job expectations and discrimination, improving the protection of the OSI from discrimination;
6. Improving labour laws to allow more flexible forms of employment;
7. Increasing motivation of the OSI to engage in the labor market;
8. Strengthening special forms of employment within which the OSI would acquire knowledge to go out into the open labour market;
9. Improving the assessment of working capacity and increasing the motivation of the OSI to participate in the assessment of working capacity, strengthening the capacity of the NES;
10. Improving the compliance of the labour market and education of the OSI, strengthening mechanisms of career guidance;
11. Increasing employment of the OSI in the public sector;
12. Improving the accessibility of the community;
1. Giving support to employers to hire the OSI, encouraging employers;

3.5. SOCIAL PROTECTION

3.5.1. LEGISLATIVE FRAMEWORK

Defining disabilities and anti-discriminatory provisions

Social Protection Act⁷⁹ (Article 41) deals with the persons with disabilities. According to this provision, the social protection beneficiary is an adult or an elderly person „who has bodily, intellectual, sensor or mental difficulties or difficulties in communication, and who, due to social or other barriers, faces functional limitations in one or more fields of life“ The same Article of this Law identifies a child as a social protection beneficiary if „he/she has difficulties in development (bodily, intellectual, mental, sensor, speech-linguistic, socio-economic, multiple), and his/her needs for care and material security surpass his/her family’s possibilities.“

The Constitution of Serbia (Article 21.) defines that everyone is equal before Constitution and law. Everyone has a right to equal legal protection, without discrimination. No discrimination is allowed, either direct or indirect, on any grounds, and especially not on the grounds of the race, sex, ethnicity, social background, birth, religion, political or some other belief, financial position, culture, language, age and psychological or physical **disabilities**. Special measures that may be introduced by the Republic of Serbia in order to accomplish full equality of persons or group of persons who are essentially in unequal position compared to other citizens, are not considered to be discrimination.

Anti-discriminatory provisions relevant for the analysis are contained in the **Law on Prevention of Discrimination of Persons with Disabilities**⁸⁰, the first legal act that protects the basic human rights of the persons with disability and that has been in effect since 2007; as well as in **the Law on Ban on Discrimination**⁸¹ - general antidiscrimination law applied since 01 January 2010.

Law on Social Protection⁸² contains an anti-discriminatory provision that stipulates that no discrimination of social protection beneficiaries is allowed based on the race, sex, age, ethnicity, social background, sexual

⁷⁹ « Official Gazette RS» no. 24/11

⁸⁰ „Official Gazette RS“, no. 33/06

⁸¹ „Official Gazette RS“, no. 22/09

⁸² « Official Gazette RS» no. 24/11, Article 25.

orientation, // religion, political trade union or some other affiliation, financial position, culture, language, disabilities, the nature of social exclusion or some other personal characteristic.

Legal acts on the national and local level

Constitution of Serbia contains the provisions on social protection (Article 69) that lays down that the citizens and the families that need assistance of the community/social assistance in order to overcome social and life difficulties and create conditions for meeting elementary life necessities, are entitled to social protection, the provision of which is based on the principles of social justice, humanism and respect of human dignity. According to the same institutional provision, special protection is provided to persons with disabilities, war veterans and victims of war, in accordance with the law.

Laws

Law on Social Protection (ZSZ) provides for the mechanisms for expanding the assistance to the poor, includes the strategic goals relating to the reform of social services and governs the rights, types of services, institutions and service providers, beneficiary groups, mechanisms for quality control, responsibility in establishing and financing and other issues. ZSZ is based on the **concept of provision of services** in social protection. This is an approach in meeting the beneficiaries' needs that puts an accent on the type and content of services that the beneficiaries need. The concept of provision of services is based on the concept of the human rights, i.e. rights of a child. It includes fostering the beneficiary, beneficiary's family members and other persons important for the beneficiary. Beneficiary's rights and needs are assessed based on multiple aspects (holistic). A starting presumption of this concept is that the system of services should be defined in the system of social protection, rather than the system of social protection institutions, because we take into account that service providers (organizations) may be different: state services, civil society organizations, i.e. associations, entrepreneurs.

The rights to social protection are exercised by providing **the social protection services** and through **financial support**.

The following has been recognized as the beneficiary groups of social protection: 1) child if he/she has difficulties in development (bodily, intellectual, mental, speech-linguistic, social-emotional, multiple), and his/her needs for care and financial security surpass the possibilities of the

family; as well as 2) adult or an elderly person, if he/she has bodily, intellectual, sensor or mental difficulties or difficulties in communication, and when, due to social or other obstacles he/she faces functional limitations in one or more fields of life. A contemporary value-related and terminological approach to persons with disabilities is visible from the definition of beneficiary groups..

Social protection services are divided into the following groups: 1) services of assessment and planning – assessment of situation, needs, strengths and risks of beneficiaries and other important persons in his/her environment; assessment of the guardian, foster parent and adoptive parent; making individual or family plan for provision of services and measures of legal protection and other assessments and plans; 2) daily services in the community – day-care; home-based assistance; shelter and other services that support staying of the beneficiary with the family and close community; 3) services of support for independent living – supported living; personal assistance; training for independent living and other types of support necessary for beneficiary's active participation in community; 4) counseling-therapy and social-educative services – intensive services of support to the family in crisis; counseling and support to parents, foster parents and adoptive parents; support to the family taking care of their child or an adult member of the family with developmental disabilities; keeping family relations and re-uniting the family; counseling and support in case of violence; family therapy; mediation; SOS phones; activation and other counseling and educational services and activities; 5) accommodation services – accommodation in kin, foster or other family for the adults and elderly; accommodation in a home; accommodation in a shelter and other types of accommodation.

Financial support is provided to a beneficiary through financial social assistance, assistance allowance and other person's care, increased allowance for other person's assistance and care, assistance for training for work, lump sum financial assistance, in kind assistance and other types of financial support, in accordance with this law and regulations promulgating for its application.

A local self-governance unit is an important social actor in providing social protection services. The reason for this is a need for development of bigger number of services in community (*community based services*) that enable staying of a beneficiary in his/her community and his/her social cohesion. Daily community-based services, support services for independent living, as

well as counseling-therapy and social-education services are within the competence of local self-governance units.

The process of decentralization has multiple importance. Territorial organization of Serbia is made up of municipalities and cities, as local self-governance units, the City of Belgrade as a separate territorial unit, and autonomous provinces as a form of territorial autonomy. Serbia has 5 statistical regions (Vojvodina, Beograd, Southern and East Serbia, Šumadija and Western Serbia, Kosovo and Metohija), 29 administrative counties and 175 municipalities and cities.

Development programs are adopted by municipalities; they can include the plans in the field of social protection. In the field of social protection, the municipality is responsible to: establish institutions in the field of social protection; monitors and secures their functioning; issues permits for beginning of work of social protection institutions founded by other legal and physical entities; determines fulfillment of requirements for providing the social protection services; lays down the norms and standards for performing the activity of the institutions whose founder it is; issues regulations on rights in social protection.

Special purpose allocations. According to ZSZ, in order to foster out-of-institution services at the local level, three types of special purpose allocations are envisaged, to be used by local self-governances to develop social protection services.

By-laws

By-laws within the competence of the Republic

Subordinate level of regulation is crucial for the application of ZSZ. This law has been designed in way that its full-scale application requires passing of a number of by-laws. The reason for such a designing of ZSZ is in the need to make such a basis in the regulatory sphere that allows changing of regulations sufficiently quickly and easily, in order to improve the system of social protection, in accordance with the needs that will be identified during the application of ZSZ. In this way normative flexibility is achieved and a potential of regulations to be tailored to realistic needs in dynamic or transitional environment.

*Rulebook on Minimum Standards for Provision of Social Protection Services*⁸³ was designed in a way to make sure that minimum standards can be applied to all social protection service providers (both in the state, private and non-governmental sectors), that they are feasible and measurable. Minimum standards identify minimum and accomplishable requirements in order to reach the quality of social protection services. This Rulebook lays down more specific requirements and minimum standards for provision of all social protection services, unless a special regulation governing more detailed requirements and standards for accomplishing certain social protection services regulate otherwise. The Rulebook defines *personal companion* of a child with developmental disabilities, which can form a separate service, but can also be implemented as a work program with the beneficiaries within the framework of home-based and day care assistance. The Rulebook specifies common and special minimum standards. Common minimum structural and functional standards represent requirements that must be complied with independently of beneficiaries groups to whom a service is intended, unless a special regulation governing more detailed requirements and standards for accomplishing certain social protection services regulate otherwise. Separate minimum and structural functional standards represent specific requirements that must be complied with within the framework of a specific group of services or specific service, in accordance with the needs and differences of beneficiaries' groups.

By-laws within the competence of local self-governance units

According to the ***Law on Local Self-Governance***⁸⁴ Municipality, i.e. the city adopts the development programs, including development of social protection, and in the field of social protection establishes institutions, monitors and secures their functioning, adopts regulations on the rights in social protection, etc. Responsibilities of local self-governance units in the field of social protection, from the Law on Local Self-Governance, must be viewed in the context of ZSZ, based on which the system of social protection services is introduced. Based on the decisions on social protection, the local self-governance units determine which services and types of financial benefits from their own responsibility they will provide to the citizens in their territory, to which target groups they provide individual services, in which way (through social protection institutions founded by

⁸³ At the time of making this analysis this Rulebook was pending adoption.

⁸⁴ „Official Gazette RS“, no. 129/2007

them or by public procurement of services), issues related to the methodology of forming prices of services in its competence, participation of beneficiaries in the cost of service, etc.

Strategies, action plans and other documents

Poverty Reduction Strategy (2003) The main strategic guidelines refer to fostering dynamic growth and development, prevention of new poverty and efficient application of the existing and defining new programs, measures and activities, directed toward the poorest and groups in social need (children, the elderly, persons with disabilities, refugees and displaced persons, the Roma, rural needy population and uneducated).

Strategy of development of social protection (2005) The main goal of the development of social protection system is to develop integral social protection in which the social actors use the existing and develop the new resources, in the most efficient way, through available, quality and versatile services, in order to preserve and improve the quality of life of vulnerable and marginalized individuals and groups, training for productive life in a community and prevention of dependence on social services. The Strategy defines special and individual goals, as well as the activities and the measures that should lead to reaching the main goal of this strategy.⁸⁵ The action plan for the implementation of this strategy has never been adopted, although its draft was developed in 2006. It is noteworthy that a big number of goals defined in the draft of this action plan have been achieved.

Strategy for promotion of the position of persons with disabilities was adopted by the Government of the Republic of Serbia in 2006. This document promotes the standards of human rights and guidelines of the policies in the field of improving life quality of the persons with disabilities during the period 2007 to 2015. The term *persons with disabilities* denotes

⁸⁵Local strategies of development of social protection were adopted in 122 municipalities in Serbia. All these strategies were developed according to the same model, with very different proposals for development of services in a local community. These proposals were harmonized with the recognized needs in local communities. Priorities, measures and activities for their implementation were identified. Forming of local bodies for social protection was planned for all municipalities. A limiting factor in the implementation of these measures included local budgets in which there is not enough financial resources for their implementation.

persons with innate or acquired physical, sensor, intellectual or emotional disability who, due to social or other barriers, do not have a possibility or have smaller possibilities to be involved in the activities of the society at the same level with others, regardless of whether they are able to carry out mentioned activities with the use of technical aids or support services. A strategic goal set by this document is to improve the position of persons with disabilities up to the level of equal citizens who have all the rights and responsibilities. The strategy promotes social approach (social model) to disabilities, according to which the problems of the persons with disabilities are understood as socially-dependent, i.e. as a product of organization of a society and places an accent on removing barriers faced by the persons with disabilities in everyday life. The Strategy was designed after the model of international standards of protection of persons with disabilities and to the highest degree takes over the principles from the Action Plan of the Council of Europe 2006-2015. The Strategy envisages periodical passing of the action plans for the implementation of this strategy. Ministry of Labour, Employment and Social Policy did not prepare the action plans to accomplish these strategies for time periods 2007-2009, 2009-2011, 2011-2013. At the time of making this analysis, no Action Plan was developed even for the period until 2015.

Concrete rights, services, programs and forms of support to persons with disabilities

Legal capacity, deprivation of legal capacity and guardianship are legal institutes, which, as a red thread, permeates and relates to a number of other rights of the persons with intellectual disabilities i.e. intellectual or mental difficulties, and in reference to Article 12 of the Un Convention of the Rights of the Persons with Disabilities (equal position before and under the law). Family Act⁸⁶ is a basic law that regulates the field of deprivation of legal capacity and placing under guardianship.

Financial benefits in social protection

Decisions provided by ZSZ with regards to **cash social benefits**, primarily ensure a larger coverage and higher benefits for more household members as well as for the households in which all members are incapable of work. The Law introduces a term of a base in nominal amount. Depending on the age structure and composition of the household, the levels of

⁸⁶ "Official Gazette RS", broj 18/05.

limits/amounts of social benefits are obtained for each household by multiplication with appropriate coefficients. Additionally, the social benefits are increased by 20%. **Increased amount of social benefits** is awarded to a person who is incapable of work, i.e. to a family whose all members are incapable of work as well as to a single parent family at the level of the difference between the amount of increased social benefit and the amount of average monthly income of that individual, i.e. family earned during three months preceding in a month in which a claim for increased social benefit was filed. The term of a person incapable of work has also been expanded based on legal solutions.

A base for determining the amount of cash social benefits at the time of passing ZSZ (March 2011) was 6.050 Dinars (54,53 Euro). A base for determining the cash social benefit is adjusted with the consumer price index in the previous six months, based on statistical data twice a year, on April 1, and October 1.

With regards to the allowance for other person's care and assistance defining of this institute in ZSZ protection includes definition of a benefit user, with explicit stating of the persons with intellectual disabilities as potential target protection group and persons with organic/ permanent disorders of neurological and psychological type. The amounts of benefits are expressed nominally, with indexing performed twice a year, against consumer price indexes. An allowance for assistance and other person's care is defined at the nominal monthly level, which, at the time of passing the Law, was 7.600 Dinars (68.50 Euro); the Law also stipulates that the amount of the allowance for assistance and other person's care is adjusted with the consumer price index in the preceding six months, based on statistical data, twice a year, on April 1 and October 1. Additionally, this Law stipulates that any person who, due to physical or sensory impairment, intellectual difficulties or changes in health condition is in need of an assistance and care of another person, and who was determined on the basis of the regulations on pension and disabled persons' insurance to have a 100% physical impairment or organic permanent disorder of neurological and psychological type, as well as any person who has multiple impairments, providing that the level of impairment is 70% or more on at least two bases, is **entitled to increased allowance for assistance and care of another person.**

Parents of a child with developmental difficulties entitled to an increased allowance for assistance and care of other persons, i.e. one of the parents of a child, and who has directly taken care of his/her child for at least 15 years, is entitled to a special cash benefit in the form of life-long monthly cash allowance at the level of the lowest pension in employees' insurance at the time of meeting the age requirement for pension according to the pension and disabilities insurance regulations, in case that he/she is not entitled to pension. A special cash allowance in this regard is adjusted in a way defined for adjusting the lowest pension in employed persons' insurance.

The right to assistance in training/education is primarily exercised by the children and the young with slight physical or intellectual difficulties, and in practice this most commonly includes only the use of the transportation cost benefit and very rarely accommodation costs if the training process is carried out outside of the place of residence⁸⁷.

Only a very small number of beneficiaries uses **an allowance for expenses of staying in pre-school institution for children with developmental disabilities**. This right has been provided for on the basis of the Law on Financial Support to the Families with children, and is within the competence of local self-governance units.

The procedure for exercising the right to cash social benefit, rights to allowance for other person's assistance and care and the rights to increased allowance for other person's care assistance and is initiated upon request, or may be initiated ex officio. The Center for Social Work founded for the territory in which the claimant has a residence, i.e. temporary residence decides on the rights to cash social benefits, right to other person's care and assistance, and right to an increased amount of other person's care and assistance.

Social protection services, defined by ZSZ are available to all beneficiaries who are in need of them. The assessment of the needs for a specific service is performed in the center for social work, ex officio or at the beneficiary's request. Any physical or legal entity may initiate the procedure by filing a claim. Legal jurisdiction of the center for social work is determined

⁸⁷Reports on work of Centers for Social Work in Serbia in 2009 and 2011, Republic's Institute of Social Protection.

according to the beneficiary's residence and exceptionally, the procedure for use of the service may be carried out by a center for social work in the territory of which the beneficiary has temporary residence.

Cash benefits in the system of pension and disabled persons' insurance

The **Law on Pension and Disabled Persons' Insurance**⁸⁸ provides for the following types of rights: in case of age – right to age pension; in case of disabilities – right to disabled persons' pension; for the case of death: right to family pension, right to reimbursement of funeral expenses; for the case of physical damage, caused by injury at work or professional disease – right to cash compensation for physical damage; for the case of other person's assistance and care – right to cash compensation for other person's assistance and care. The procedure for exercising the right from pension and disabled persons' insurance is initiated upon the person's request and along with the related documents filed to the responsible branch, according to the place of last insurance or the place of residence of claimant.

The right to disabilities pension is awarded if the total loss of legal capacity until the age necessary for eligibility to age pension: if the cause of disability is injury at work or professional disease, regardless of the length of years of service; if disability is a consequence of a disease or injury outside the place of work, it takes at least five years of service. An exception to this are the insurees with whom disability occurred prior to 30 years of age: until 20 years of age, at least one year of service (insurance) is necessary; until the age of 25 – two years of service; until the age of 30 – three years of service.

The right to cash compensation for other person's assistance and care is awarded to an insuree and the beneficiary of pension, who, due to the nature and seriousness of injury or illness, needs assistance and care to carry out activities in order to meet the basic life needs. According to the Law on Pension and Disabilities Insurance, only immobile persons, persons with completely impaired vision, and persons with dementia and those unable to eating, dressing or moving in the house, as well as persons on hemodialysis are practically entitled to this compensation. In cases where

⁸⁸“Official Gazette RS”, no. 34/2003, 64/2004 – Decision of USRS, 84/2004 - dr. law, 85/2005, 101/2005 - dr. law, 63/2006 – Decision of USRS, 5/2009, 107/2009, 101/2010 and 93/2012)

the committee for persons with disabilities assesses that the health condition can improve, a review is scheduled. Cash benefit for other person's assistance and care amounts to 15.439,59 Dinars (139,15 Euro)⁸⁹. The payment of this benefit is not dependant on the amount of other income.

The right to cash allowance for physical injuries is awarded to insurees who, due to an injury at work or a professional disease, have lost the function of a certain organ or parts of the body, or their functioning was significantly impaired. The amount of the cash benefit for physical injury is determined depending on the identified percentage of physical injury from 30% to 100% (which is decided by the competent disabilities committee), of the prescribed basis and is adjusted in the same way as the pensions. The basis for its determination is 6.432,99 Dinars (58,00 Euro)⁹⁰.

An insuree – pension beneficiary and the insuree's blind child are entitled to **cash benefit for buying special aids for reading and writing** – reproducer, Braille typewriter and other electronic i.e. digital aids.

Rights of professional military persons, soldiers, military and civilian war disabled persons.

The regulations on the Army of Serbia and the Law on Pension and Disabilities Insurance, defines the right to an age pension and the right to disabilities pension for professional military persons, as well as the right to the family pension of a spouse or children of professional military person. The rights of soldiers, civilian and military war disabled persons, are regulated under the **Law on the Rights of War-Disabled Civilians**⁹¹ and the **Law on Basic Rights of War Veterans, War-Disabled Combatants the Families of Killed Soldiers**⁹². Only those citizens who acquired the capacity of a soldier, war-disabled combatant, i.e. war-disabled civilian are entitled to the rights in soldier-disabilities protection. These rights are exercised before the municipal administrative body in charge of soldier protection. The following rights are available in this field: soldier's allowance; personal

⁸⁹ Source: Pension and Disabled Persons Fund, Belgrade, (2013)

⁹⁰ Ibidem.

⁹¹ "Official Gazette RS", no 52/96

⁹² "SRY off.gaz.", no. 24/98, 29/98 – corr. and 25/2000 – decision of SUS and "RS Off.Gazette", no. 101/2005 - dr. Law and 111/2009 - dr. law)

disabilities payment of disabled soldiers; allowance for assistance and care of the disabled soldier; right to an orthopedic aid; disabled soldier's right to compensation during unemployment; disabled soldier's right to compensation for food and accommodation in order to travel to another place; right to passenger motor vehicle; right to free and privileged transport; right of the member of soldier's and disabled soldier's family in case of soldier, i.e. disabled soldier's death; right to family disabilities payment; rights of the war-disabled civilian to personal disabilities payment; allowance for other person's care and assistance; orthopedic aid; free and privileged transport; compensation for food during traveling and staying in another place upon the invitation of a competent body; compensation for funeral expenses.

Tax and customs duty exemptions

In the legal system of Serbia, persons with disabilities are entitled to exemption from payment of different tax and customs levies. Exemptions in the payment system are realized on the basis of the Law on Sales Tax that regulates (among other) that the following is exempted from the sales tax on products, i.e. services: medicaments stated in the list of medicaments that are prescribed and dispensed charging the health insurance funds; dialysis material; blood and blood products; orthotic and prosthetic aids; medical devices – products that are directly incorporated in the body.

Benefits in internal passenger transport

Persons with disability are provided benefits in internal passenger transport. Benefits relate to the following persons: blind persons; persons suffering from dystrophy and related muscular and neuromuscular diseases; persons suffering from *plegia*; persons suffering from cerebral and child paralysis; persons suffering from multiplex sclerosis; as well as these persons' companions.

Living

The relevant regulations govern the welfare housing and supported housing. *According to the Law on Welfare housing*⁹³ persons with disabilities are also entitled to be beneficiaries of a welfare

⁹³ "Official Gazette RS", no. 72/2009

accommodation, if they comply with other prescribed conditions. *The Law on Social Protection*, within the group of services of support for independent living, regulates the service of supported living. The service is available in a long-term to persons with physical disabilities, with intellectual or mental difficulties, upon turning 15 years of age.

3.5.2. INSTITUTIONAL FRAMEWORK

Bodies and institutions in the field of social protection, levels of their organization and financing

At the *legislative level*, the **Committee for labour, social issues, social inclusion and poverty reduction** was established as one of the working bodies of the National Assembly of the Republic of Serbia

The Government of the Republic of Serbia has established a **Social Inclusion and Poverty Reduction Team** with the office of the Deputy Prime Minister for European Integration, in July 2009. The Team is responsible for strengthening the capacities of the Government to develop and implement social inclusion policies based on the application of good practices in Europe and to support the competent ministries in the development and implementation of social inclusion policies, with regular consultations with civil society organizations

The social welfare system that is also relevant for persons with disabilities who are recognized as one of the beneficiary groups, consists of the Ministry of Labour, Employment and Social Policy; Secretariat of Health, Social Policy and Demography of the Autonomous Province of Vojvodina; bodies of local self-governance units (municipalities and cities) responsible for social and child welfare; institutes for social welfare; centres for social work; centres for foster care and adoption; Centre for the Protection of Victims of Trafficking; the network of public institutions of social welfare founded by the Republic, AP of Vojvodina and local self-government units, as well as providers of social services organized in different forms in accordance with the laws.

A Centre for Social Work is a social welfare institution in which the rights are exercised, measures are applied, services are provided and other tasks are performed in the area of social protection. In the realization of its

public authorization a centre carries out activities which are mainly determined by the ZSZ, Family Act, as well as other acts and regulations. In Serbia there is a network of 140 centres for social work, within 173 departments.

Providers of social welfare services are social welfare institutions and other organizations organized in accordance with the law. A social welfare institution may be founded by the Republic, the Autonomous Province, local self-government units and other natural and legal persons. Providers of social welfare services may also be associations, private entrepreneurs, etc.

3.5.3. COMPLIANCE WITH THE CONVENTION

Harmonization of the definition of disability

- The Constitution (Article 21) uses the term "the disabled" and it would be more adequate to replace it with the word "persons with disabilities" in order to comply with the terminology of the Convention on the Rights of Persons with Disabilities. ***Due to the use of inadequate terminology, the Constitution partially complies with the UN Convention, and, in the case of amending the Constitution, it is necessary to adapt the terminology to that of the UN Convention and harmonize it with international standards, which are part of the legal system of Serbia.***
- The Law on Social Protection (Article 41) refers to the persons with disabilities, and they are people with physical, intellectual, sensory or mental disabilities or communication difficulties, and when, due to social or other obstacles, they encounter functional limitations in one or more areas of life. Social dimension in the definition of persons with disabilities is visible in this provision. ***The Law on Social Protection regarding the definition of persons with disabilities is in compliance with the UN Convention.***
- When the broader legal, regulatory body concerning the appropriate standard of living and social welfare is considered, it is necessary to review the definition of disabilities at the state level and guarantee a unique definition for the entire sector and all rights pertaining to disabilities. ***It results from this that the relevant legislation partially complies with the UN Convention.***

Anti-discriminatory provisions

- The Constitution of Serbia contains anti-discriminatory provision which complies with the UN Convention
- **The Law on Prevention of Discrimination against Persons with Disabilities and the Law on Anti-Discrimination** contain adequate modern anti-discriminatory provisions, which are in line with the UN Convention
- **The Law on Social Protection** defines the objectives of social welfare in its introductory section, indicating, among other things, the creation of equal opportunities for independent living and encouraging social inclusion. It is this part of Article 3 that is based on Article 19 of the UN Convention on the Rights of Persons with Disabilities and Article 15 of the revised European Social Charter, and represents a step forward compared to the previous law. The Law on Social Protection recognizes the principle of protection of human rights and dignity for users of social services (Article 24) and prohibits discrimination against them (Article 25), including the prohibition of discrimination based on disabilities. In this sense, services are provided to beneficiaries in the least restrictive environment (Article 27), which means that a person should be able to remain in his/her community. One may conclude from the aforesaid that the Law on Social Protection includes anti-discrimination provisions that comply with the UN Convention.

Deprivation of legal capacity and guardianship

- **Family Act** partially complies with the UN Convention. The provisions of depriving of legal capacity, in particular institute of complete deprivation of legal capacity, are not in accordance with the UN Convention.

Equal access to resources, rights and services

In the relevant regulations that are subject of this part of the analysis, with respect to the adequate standard of living and social welfare, it can be concluded that:

- Persons with disabilities have equal access to social welfare services, devices and other assistance (financial benefits from the social welfare system and pension and disabilities insurance) for their needs. In this section, the provisions of the analyzed regulations comply with the UN Convention.

- Persons with disabilities, in particular women and girls with disabilities and older persons with disabilities have access to the social welfare programmes and poverty reduction programmes. In this section, the provisions of the analyzed regulations comply with the UN Convention.
- Persons with disabilities and their families living in poverty have access to the state aid to cover the costs associated with disabilities, including adequate training, counseling, financial assistance and temporary other people's care. In this section, the provisions of the analyzed regulations comply with the UN Convention.
- Persons with disabilities have access to housing programmes, as well as supported housing as a social welfare service. In this section, the provisions of the analyzed regulations comply with the UN Convention.
- Persons with disabilities have equal access to retirement benefits and programmes. In this section, the provisions of the analyzed regulations comply with the UN Convention.

Institutional framework in the area of social welfare is well developed, and the Law on Social Protection contains provisions that allow greater participation of non-governmental organizations in the provision of social services.

3.5.4. IMPLEMENTATION ANALYSIS

Focus groups

The implementation of the legislative and institutional frameworks in the area of "Adequate standard of living and social welfare", was analyzed with a focus on social welfare

Relevance of the research findings as well as conclusions and recommendations, primarily has a strong descriptive component - experiences and relationships of the respondents towards the topics which were regarded by the survey questions and to the topics which were dealt with during the work in the focus group. Any interpretation based on the above said was carried out with appropriate research caution, and

conclusions and recommendations that are in this report indicate illustrative and significant sequence of the practice

In the focus group the subject of discussion were the factors that make it more difficult for the organization of civil society dealing with persons with disabilities to participate in providing social services.

Participants spoke about the experiences they had with representatives of units of local self-government in connection with facilitating the provision of social welfare services and obtaining funds from local budgets for the implementation of activities that are related to the social welfare of persons with disabilities

According to the respondents' statements, the disturbing factors for the participation of organizations of civil society in this area are:

- the existence of spheres of interest of decision makers in local communities, which are not always transparently identified and are not in correlation with the citizen's needs for the social welfare services;
- the importance of the political affiliation of persons interested in obtaining funds for implementation of projects;
- the existence of lobbies for allocation of funds for implementation of projects

One of the important factors that have a negative impact on improving the status and obtaining roles of providers of the social welfare services of organizations of civil society, is also the establishment of public institutions for the provision of these services in the community. The unclear role of centres for social work also has a negative impact on the improvement of the status of civil society organizations in the provision of social services. Centres for social work are favoured as providers of these services, even when the legal requirements for such a solution are not met

The practice of the Ministry of Labour and Social Policy in the open competitions for the allocation of funds for the project financing and development of services in the community is identified as one of the obstacles to the development of social welfare services in the community. Namely, the responsible ministry envisages a guarantee of the service sustainability as one of the criteria for the grant of resources and it should be provided by the units of local self-government. This is an obstacle for poor municipalities, which cannot guarantee that the service will also be

provided after termination of project financing from the national budget.

Survey

According to the respondents' statements, in the units of local self-government from which respondents are coming there are the social welfare services for persons with disabilities as follows: help at home, daycare centres, personal assistance and other services and programmes.

Home-based Assistance is one of the most widespread services in communities intended for persons with disabilities. In addition to the fact that this is a frequent social welfare service, the survey results in terms of the service also points to its recognition, i.e., that the respondents are well informed about the existence of this service. *Daycare centre* is, as well as help at home, very present social welfare service in local communities for persons with disabilities. Although a service with significant capacity to provide independent living for persons with disabilities, *personal assistance* is less common in local communities. According to the respondents' statements this service exists in twelve (12) units of local self-government, but in five (5) of the said local communities where there is personal assistance, the service is provided through projects, i.e., temporarily. *Other services and programmes* identified in the units of local self-government from which the respondents are coming, are: respite - weekend accommodation; transportation of persons with disabilities who are beneficiaries of the daycare centres counseling; supported housing; a club of young people with disabilities

Respondents indicated a number of social services and programmes that persons with disabilities need, but which are not present in all analyzed local communities: personal Assistance

- *help at home*
- *daycare centre*
- *respite accommodation*
- *supported housing*

In addition to the aforesaid, there is also a pronounced need for the following services and programmes:

- *programmes to support the employment of persons with disabilities*
- *transport for persons with disabilities*
- *assistant in school*

- *child's personal companion*
- *sign language interpreter.*

Among used rights to financial support, the respondents state that they use the allowance for assistance and care of other person, as well as the increased allowance for help and care of other person. A number of respondents indicated that they do not use any rights to the financial help from the social protection.

Proposals for the improvement of the social protection system for the persons with disabilities

The obtained proposals for the improvement of the social protection system for the persons with disabilities can be classified according to similarity and areas to which they relate, as follows: 1) proposals relating to the obligations of republic authorities and units of local self-government to improve the services in local communities; 2) proposals regarding improvement of information, communication and coordination; 3) proposals to improve the capacities and status of service providers, civil society organizations

Obligations of the republic authorities and units of local self-government to improve the services in local communities

Participants clearly recognize the correlation between realization of the legal obligations of local governments to improve services in the community, but the relevance of fulfillment of the obligations of the Republic of Serbia

Information, communication and coordination are recognized as important factors for the improvement of the system of the social welfare services for persons with disabilities

Improving the capacity and status of service providers, civil society organizations has been recognized through the need to strengthen the capacities of the organizations that are interested in the provision of social services.

4. RECOMMENDATIONS

4.1. Recommendations in the accessibility field

1. Provisions of the Law on Planning and Construction, and related by-laws on mechanisms of supervision of compliance with accessibility standards should be further elaborated and clear criteria, authorizations, procedures and duties of performing supervision should be defined.
2. National Action Plan for Removing Barriers and Local and Regional Accessibility Strategies should be adopted,
3. Continuous efforts should be put into education of expert public, bodies responsible for supervision of compliance with accessibility standards and the persons with disability themselves as well as the activities of their organizations.
4. Provisions of the Law on Road Transport should be amended to incorporate the provisions on guaranteeing accessibility to passengers with disabilities
5. General provisions on availability of public information and electronic communication of the persons with disabilities should be further elaborated and by-laws with more precise technical guidelines on how to make public information and electronic communication accessible to persons with disabilities should be adopted.
6. The Law on Use of Sign Language should be adopted.
7. By-laws and technical norms that would ensure accessibility of goods, public goods and services should be elaborated and adopted.
8. The Law on Movement of Blind Persons with the help of guide dog should be adopted.

4.2. Recommendations in the field of education

The process of revision of documents with full participation of the persons with disability is necessary

1. Laws on Elementary and Secondary Schools, adopted before ratification of the Convention, in which the part on special education is applied, as well as the Rulebook on the Type of Professional Qualification of teachers, assistants and assistant

teachers in specialized schools for pupils with slight mental developmental difficulties originating from 1992 should be harmonized with Article 24 of the Convention.

2. Emphasis should be placed on the talents of children with disabilities, on improving the organization of sport activities for children with disabilities. Peer counseling centers within the educational institutions, pedagogical assistance. As for the teaching staff, persons with disabilities should be employed, accessibility. Providing information to the parents on the rights, cooperating of teaching staff.
3. Employment of persons with disabilities in educational institutions, experienced-based counseling of children and peer counseling.
4. Constant education in media, seminars for teaching staff, different forms of support and strict application of laws and improvement of the existing, i.e. passing of the new laws in this field. Provide interpreters, personal assistance, introduce training for teachers who work with persons with disabilities.
5. Introduce education of future teachers, with a certain program relating to the persons with disabilities, so as to be able to influence the improvement of instruction and inclusion.
6. Children and adults with disabilities, i.e. hearing impairment should be provided so that they can have easier communication with the hearing persons and introduction of the gesture language as equal.
7. Implementation of legal regulations, using support by the Network of Support to Inclusive Education, development of services of support to inclusive education by the civil sector, organizations of persons with disabilities.
8. Incorporation of subjects such as the rights of and discrimination against persons with disabilities in higher education curricula for teachers/trainers and expert services in schools.
9. Organize additional training for teaching and other staff of school for application of different methodologies and strategies in education.
10. Provision of information, education and workshops to the teaching staff, principals and lawyers in educational institutions, about the importance of full application of the Convention, on the resources that are hidden in the OSI themselves.
11. Changing of the perspective of OSI from the aspect of persons with *disabilities* to the persons *with developmental difficulties* and advising so that no teacher or pedagogue do not *impede* anyone

with anything that they may do. In this, it should be insisted that the Ministry takes a clear position and necessary steps, by **not** asking for paperwork on the existence of teams, by **non** requiring the making of IOPs, by **not** writing the reports and by not insisting on the meetings in which everyone is mainly quiet waiting for the meeting to end; and instead to apply clear penalty measures if they come across any form of child neglect, interfering with educational or any other functioning...

12. Encourage and inform the parents, especially in small towns/communities and educate the parents of children with disabilities **not** about the rights but about the *way to solve* any situation on the ground – by referring to ombudsman and/or lawyers and by filing appeals, reports from the ground on work and appealing to the work of educational institutions, teaching staff and all others participating in *impeding a child to exercise his/her rights guaranteed under UN Convention, the Republic of Serbia Constitution, Law on Basis of Education and Upbringing*.

4.3. Recommendations in the field of health care

1. Prepare an outline of specific needs and problems characteristic for specific forms of disability, that should be addressed separately.
2. Equalize terminology in all regulations in this field,
3. Amend the Rulebook on Rehabilitation in RH centers (possibility of using a spa for persons with cerebral paralysis after 18 years, as well as using spa treatment for children with disabilities during summer holidays,
4. Decentralize knowledge and resources in university clinics for certain healthcare treatments (non-invasive lung ventilation) and train the healthcare staff,
5. Remove architectural, communication, technical and other barriers in healthcare institutions, wherever possible and in as short time as possible,
6. Make the health protection uniform in the whole of Serbia territory,
7. Introduce a possibility of dispensing medicines for the period longer than one month without a participation fee,
8. Amend the Rulebook on Aids in the segment of simplifying the procedure of getting certain aids for a short time period, servicing and renewing,

9. Raise awareness of health workers on the rights of persons with disabilities,
10. Raising the level of healthcare culture of persons with disabilities.

4.4. Recommendations in the field of employment

1. Start an initiative for the term disabilities in the framework of ZPIO to be adjusted with the Convention on the Rights of the Persons with Disabilities .
2. Improve the mechanisms of acquiring competencies and education of persons with disabilities in order to increase opportunities for employment of persons with disabilities;
3. Right to work should be provided to persons with disabilities on a long-term basis so that the legislation is harmonized with the Convention on Rights of Persons with Disabilities. In that sense, ZPRZOSI should be amended to enable employment with the assessed degree 3 of working capacity.
4. Initiative should be made to amend the positive regulations (ZPRZOSI) or to more precisely define discriminatory procedures in the process of employment and work (ZSDOSI) in order to determine the term 'discrimination' more closely;
5. Initiative should be started to equalize the position of budgetary users and other employers in the sense of the obligations of employing persons with disabilities;
6. Initiative should be started to amend ZPRZOSI or ZR so as to encourage acquiring experience of persons with disabilities in the open labour market;
7. The role of special forms of employment in the sense of inclusion, i.e. exclusion of persons with disabilities in the open labour market should be considered.

4.5. Recommendations in the field of social protection

1. In addition to the most common services of home-based and day care services, the service of personal assistance should be provided to a higher extent, as it has a great capacity to ensure independent living to persons with disability – currently even if it exists it is often provided only within a project framework, i.e. temporarily;
2. Work on the improvement of the system of social protection

services in community designed for persons with disabilities, i.e. those that are in the competence of the local self-governance units, should be continued;

3. Mechanisms of promoting plurality of social protection providers should be more consistently applied, i.e. the place of civil society organizations as potential service providers for persons with disabilities should be promoted;
4. The practice whereby the centres for social work are still given inappropriately big role in provision of community-based services, due to the local self-governance views, whereby the legal provisions on public procurement of services are avoided and the social protection centers enabled to provide these services outside the requirements envisaged by the Law on Social Protection;
5. There should be clear systems of communications between civil society organizations and local self-governance units;
6. Clear procedures, monitoring and control of application of standards of social protection services are all required, making the system sustainable;
7. Representatives of local self-governance units, representatives of centres for social work and representatives of civil society organizations should all be invited together to the meetings dedicated to promoting community-based services.

Annex 1:

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