



# REPORT

*ON SITUATION OF PERSONS WITH DISABILITIES IN SERBIA*

*Analysis of Legislation and Practice*



Belgrade, 2007.



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Center for Independent Living of Persons with Disabilities of Serbia  
Milenka Vesnića 3, 11000 Belgrade, Serbia  
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Borivoje Ljubinković  
President of Center

**Editor:**

Gordana Rajkov  
Coordinator of EDF-CARDS project for Serbia

**Authors:**

Damjan Tatić  
Rapporteur for Serbia

Task force for National Disability Report

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Belgrade, June 2007.





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## I INTRODUCTION

Disability Rights Report for Serbia has been prepared within the framework of CARDS project that DPOs of Serbia realised in co- operation with European Disability Forum EDF and "Handicap International«. Center for Independent Living of Persons with Disabilities of Serbia (CIL Serbia) co- ordinated the project in co- operation with Union of DPO of Serbia. Report was drafted by a task force consisting of representatives of national DPOs and other colleagues from disability movement. The task force was coordinated by National disability rapporteur for Serbia.

Purpose of the Report is to provide an analysis of legislation and practice in Serbia and point out how far are legislation and practice in Serbia in accordance with provisions of Convention on Rights of Persons with Disabilities. The Report was prepared in accordance with a common methodology that had been agreed for the entire region and was done in form of responses to a set of questions. The Report should provide recommendations for adoption of new and amendments to the existing legislation and policies. It should put forth proposals for measures and activities necessary to ensure that persons with disabilities in Serbia enjoy all their rights and fundamental freedoms effectively and on basis of equality with others.

Convention on the Rights of Persons with Disabilities is the 1<sup>st</sup> document of the United Nations on human rights in the new Millennium. The UN General Assembly adopted it unanimously on December 13<sup>th</sup> 2006. Ad Hoc Committee had been drafting the Convention from 2001 until 2006. Of all human rights documents that had been adopted under the auspices of the UN, none had been adopted more speedily. Convention and the Optional Protocol to it were opened for signing and ratification on March 30<sup>th</sup> 2007. Eighty one states have signed Convention already on the first day it was opened for signatures, March 30<sup>th</sup>. This is a record in number of signatures of an international instrument on human rights in a single day. Convention sets standards that have to be implemented in all state parties. One could expect Serbia to sign the Convention by middle 2007, and after the process of harmonising its' internal legislation with it, Serbia could ratify the Convention by the end of 2008.

Belgrade, May 2007.

Rapporteur for Republic of Serbia,

Damjan Tatić, M. Sc.

## Members of the task force for National Disability Report for Serbia

1. Tatić Damjan - Rapporteur for Serbia, Center for Independent Living of Persons with Disabilities of Serbia, Muscular Dystrophy Association of Serbia
2. Cekić Božidar - Union of Labor Disabled of Serbia
3. Drobnjak Dragiša - Blind Union of Serbia,
4. Janković-Beljanski Svetlana - Union of Polio and Cerebral Palsy of Serbia,
5. Jovanović Ivanka - Muscular Dystrophy Association of Serbia
6. Kujović Radoje - Deaf Union of Serbia
7. Ljubinković Borivoje - Center for Independent Living of Persons with Disabilities of Serbia
8. Marković Milan - Association for Assistance to Persons with Autism of Serbia
9. Mitanovski Lepojka - »Out of Circle«- organization for support to women with disabilities victims of violence
10. Pajević Mihajlo - Union of Paraplegics and Quadriplegics of Serbia,
11. Pavlović Goran - Association of Disabled Students
12. Petrović Vesna - Association for Assistance to Persons with Autism,
13. Radenković Nenad - Blind Union of Serbia
14. Rajkov Gordana - EDF CARDS project coordinator, Center for Independent Living of Persons with Disabilities of Serbia
15. Ružičić-Novković Milica - Center Living Upright Novi Sad
16. Spasov Anica - Union of Association for Assistance to Persons with Intellectual Disabilities of Serbia
17. Stošić Milan - Blind Union of Serbia
18. Taleski Vanja - Multiple Sclerosis Association of Serbia

## II ANALYSIS OF LEGISLATION AND PRACTICE

### 1. OVERARCHING ISSUES

#### 1.1. Definition, statistics

##### 1.1.1 Please define who is considered as a person with a disability in your country.

Law on Prevention of Discrimination against Persons with Disabilities provides a broad definition based on social model of approach to disability in article 3.

Law on Prevention of Discrimination against Persons with Disabilities prescribes that persons with disabilities are “persons with physical, sensory, intellectual or emotional impairment, acquired at birth or subsequently, who, due to social and other barriers, are denied or have restricted opportunities for participation in the social activities on basis of equality of others, regardless whether they can perform the above- mentioned activities with use of aids and/ or support services”.

National Strategy for Enhancement of Status of Persons with Disabilities contains an identical definition. Nevertheless, legislation traditionally dealt with physical and sensory disability and difficulties in development, i.e. intellectual and learning disabilities.

Legislation prescribing for eligibility criteria for compensatory rights and benefits provide more narrow definitions, e.g. Law on Disability and Retirement Insurance that had been adopted in spring 2003 defines disability as “total loss of working capacity due to changes in health caused by injuries at work, professional diseases, injuries out of work or diseases that cannot be removed by treatment or medical rehabilitation” (Article 21).<sup>1</sup>

Law on Social Protection and Provision of Social Security to Citizens of Serbia defines users of allowance for other persons assistance and care as “persons that, due to difficulty of illness or severity of condition, need care and assistance in performing the basic daily living needs” (Article 23).

Law on Primary School of Serbia prescribes in article 84 that children with difficulties in development are “children with physical and sensory impairments (physically disabled, blind, children with visual impairments, deaf and hard of hearing children), mentally challenged and children with multiple difficulties and impairments (children with 2 or more impairments, autistic children, etc.)”.<sup>2</sup> Children are still categorized in accordance with criteria defined by Decision that Executive Committee of Serbia adopted in spring of 1986.

Decision prescribes that physically disabled children are “children with severe and permanent impairments or disorders of locomotor system, with severe and permanent bodily deformities, severe muscular diseases and conditions (cerebral paralysis, muscular dystrophy and multiple sclerosis) and severe forms of chronic diseases and permanently damaged health” (Article 2).

Article 3 of the Decision defines a blind child: It is a child that completely lost sense of light or have sense of light at projection of light, or a child that with use of corrective lense has remains of sight of 0,05, or remains of sight of 0,10 at better eye with a corrective lense, or a child with central vision of 0,25 with a corrective lense on a better eye with a limited 20 degree sight area.

<sup>1</sup> „Službeni glasnik Republike Srbije“ («Official Gazette of Serbia») br. 34/ 2003,

<sup>2</sup> Provisions of the Law were analysed on basis of revised text published in Infotek: Kodeks registar. Law and subsequent amendments were published in “Službeni glasnik Republike Srbije” («Official Gazette of Serbia»), br 50/92, 53/93, 67/93, 48/94, 66/94, 22/2001.

Article 4 of Decision defines deaf child as child whose hearing impairment exceeds 90 decibells and that is unable to hear speech even with use of hearing aid (Clause 1). Article 4 goes on defining various categories of children with hearing impairment.

Article 5 of Decision defines children with difficulties in mental development. Children with mild mental impairment are «children that can be educated and trained for work under special conditions in order to include them in active social environment». The children with mild mental impairment usually do not exceed an IQ of 70.

Children with moderate mental impairments are „children that can be educated under special conditions in order to be enabled for simple working activities and adapting to basic conditions of the social environment“. The above- mentioned children usually do not exceed an IQ of 50 (Article 5 of the Decision).

Children with severe mental impairments are „children with very limited intellectual capacities that are able solely to adopt elementary hygiene habits, habits of self- service and develop the simplest working activities.“ Their intellectual capacities are severely limited and their IQ usually does not exceed 20 (Article 5 of the Decision).

### **1.1.2. Are people with psychosocial disabilities considered as disabled? And people with chronic illness?**

In practice there were different interpretations who can be considered person with disability, as there are no uniform criteria yet and definitions prescribed for in legislation aren't always fully implemented in practice. For example, persons with autism had not been considered as persons with disabilities for a long time, or were categorized as persons with intellectual difficulties. Unlike in many countries of the world, in Serbia many fail to recognize persons with autism as a separate category of persons with disabilities.

Public authorities and civic sector itself have not been too inclined to treat persons with psychosocial conditions as persons with disabilities.

Some of regulations and legislation on health care guarantee the same rights to health care provision to persons with chronic illness that are provided to persons with disabilities as socially endangered population. Persons with chronic illness go to disability retirement and in that respect they enjoy the same status as persons with disabilities that got disabled at work. Organization of persons that use dialysis is a member of some fori for DPO but they are not considered a «classical» DPO. Persons with chronic illness usually don't participate in the disability movement and state organ activities aimed at equalization of opportunities for persons with disabilities.

### **1.1.3. Are there different definitions of disability/ persons with disabilities used for different purposes?**

Yes, Law on Prevention of Discrimination against Persons with Disabilities provides a broad definition based on social model of approach to disability, in order to protect as many persons from discrimination as possible, regardless of the degree of impairment.

Legislation prescribing for benefits and compensatory rights usually provide more narrow definitions of persons that are potential beneficiaries and users of rights. Such definitions are focused on determining the degree of impairment and on inability and incapacity rather than ability and capacity. The above- mentioned definitions are often based on medical model of approach to disability and they don't provide sufficient basis for full inclusion of persons with



disabilities in all areas of life and mainstream society. For example, the above- mentioned definitions in the Decision on Categorization of Children with Developmental Difficulties from 1986 is deeply rooted in medical model of approach to disability. One can however expect adoption of the new Decision on Direction of Children with Disabilities, that had been drafted on basis of biopsychosocial model of approach to disability and Quebec model of process of disability that takes into consideration personal as well as environmental factors.

The use of outdated definitions and non- harmonized criteria lead to difficulties in practice when various categories of persons with disabilities attempt to realize their rights. So for example children with autism are categorized in the sub-group of children with multiple impairments while children with other behavioral disorders aren't included in it. Autistic spectrum encompasses persons with different degrees of intelligence, individual capabilities and specificities, but due to outdated definitions and methodology, rigid behavior, communication problems, lack of understanding of social situations, persons with autism often fail to show adequate results at tests of intelligence. Many persons with autism had been considered to have low IQ. Thus they are classified as persons with insufficient mental development. However, in fact persons with autism could show that they have normal or above average IQ, if they are given an opportunity to develop their capacities, to use alternative appropriate means of communication and visual aids.

#### **1.1.4. Are there any statistical data on persons with disabilities in your country?**

There are no complete statistical data on persons with disabilities in Serbia. Organs and institutions that provide particular forms of services to persons with disabilities have partial data bases on users of those services.

- So for example Fund for Disability Retirement Insurance has records for 375000 users of disability pension. National Employment Service has records for over 23000 persons with disabilities that are registered as unemployed as well as annual reports and data on number of users of programs that provide incentives for employment of persons with disabilities.
- Fund for Disability Retirement Insurance and centers for social welfare have data on approximately 55000 users of allowances for other person's assistance and care, while
- Ministry of Labor, Employment and Social Affairs has data that there are approximately 25000 persons that use allowances for other person's assistance and care on basis of Law on Social Protection, and 600 more use that allowance on basis on legislation prescribing for rights of disabled war veterans.

Department for Social Protection of Ministry of Labor, Employment and Social Affairs has data on residents of institutions for housing of persons with disabilities, while Ministry of Education has data on students of special schools and special classes in regular schools, but has no data on students with disabilities that attend regular classes in regular schools.

Data available in Serbia primarily pertains to specialized services aimed primarily at persons with disabilities. Such partial data can hardly provide a complete picture on status of persons with disabilities as it does not pertain to all persons with disabilities. There is no data on use of general systems and services for general population, nor any data on accessibility and availability for persons with disabilities of particular services for general population and general systems.

#### **1.1.5. Is there any statistical data on living conditions of persons with disabilities?**

In the course of preparation of Poverty Reduction Strategy in Serbia case studies had been conducted showing that close to 60% of persons with disabilities live at or below the poverty

line.<sup>3</sup> Center for Independent Living of Persons with Disabilities of Serbia conducted case study of additional costs of disability. One should bear in mind that it was a case study run by an NGO, while government agencies and public authorities have not researched such topics. At the initiative of DPOs and international agencies the questions on living conditions of persons with disabilities shall be included in living standard measurements in 2007.

#### **1.1.6. Is there a question on disability in the national census?**

No. On number of occasions DPOs proposed to incorporate such a question in the national census, but so far such proposals had been rejected by authorities conducting gathering of data for census.

#### **1.1.7. Were the disability-related questions included in national research such as labor force survey or households budget survey?**

So far disability-related questions were not included in various national researches. At the initiative of DPOs and international agencies questions on disability shall be included in the living standard measurements that shall be taken in 2007 within the framework of monitoring of implementation of Poverty Reduction Strategy in Serbia.

#### **1.1.8. How are persons with disabilities assessed by categorization commissions (on basis of individual needs or on basis of category of impairment, please explain)?**

Generally speaking, assessment is based on impairment and not on individual needs. Assessment usually serves as basis for directing a person with disability towards a specialised systems and services; it does not promote their inclusion in generally integrated systems or their access to services aimed at general population.

Municipal commissions consisting of physician, pedagogue, psychologist, social worker and special educator evaluate children with disabilities. Since children are categorized on basis of 1986 Decision, that contains definitions rooted in the medical model of approach to disability (see questions 1.1.1 and 1.1.3), categorization is based on impairments.

Commissions of Fund for Disability Retirement Insurance and centers for social welfare also assess persons with disabilities that apply for disability retirement or allowance for other person's assistance and care. Since the above-mentioned rights are derived from legal definitions of lack of working capacity, and lack of capacity to perform basic daily activities on one's own, the assessments focus on determining what person with disability cannot do.

Persons with disabilities are categorized in accordance with the type and degree of bodily impairment within the scope of system of disability retirement insurance, in Law on Social Protection and legislation on benefits and rights of disabled war veterans. The above-mentioned categorization on basis of bodily impairment is often used when persons apply for various benefits and compensatory rights, for example in the fields of customs and fiscal exemptions. The bodily impairment in disability retirement insurance is regulated by Regulation on Determining Bodily Impairment («Official Gazette of Serbia» No 105/2003), and in the system of protection of disabled war veterans legal basis is provided by Law on Basic Rights of Veterans, Disabled War Veterans and Families of Perished Combatants («Official Gazette of Federal Republic of Yugoslavia» No 24/98) and by-law regulations.

In practice there has been lot of controversy pertaining to determination of working capacities of persons with intellectual disabilities, persons with autism. Lack of clear criteria, small number of

<sup>3</sup> CIL Serbia's research in 2004 on a sample of 240 individual cases.

competent and qualified staff that have necessary knowledge related to particular types of impairments and more rare types of disability are the most significant challenges. Attitude that right to employment and work of persons with disabilities automatically excludes entitlement to any compensatory right and social benefit creates serious problems in practice.

In the course of preparation of National Disability Report for Serbia number of DPOs put forth proposal that in future authorities should assess the need for particular support of an individual with disability, rather than his/ her capacity to work. This would ensure that financial allowances given by state are not based on limitations but on needs instead, and persons with disabilities would not be denied their right to work.

## **1.2 Anti discrimination legislation, public procurement and other overarching issues**

### **1.2.1 Is there disability non-discrimination legislation in your country?**

Yes.

### **1.2.2 If so, please describe it briefly, answering among others, the following issues:**

- Is it part of wider non-discrimination legislation or is it specific to persons with disabilities?

There are both forms of antidiscrimination legislation: Specific laws pertaining only to persons with disabilities and parts of laws of general application that prohibit discrimination against persons with disabilities.

Serbia's Constitution prohibits discrimination of citizens on various grounds, including physical and intellectual disability (Clause 3 of Article 21).

Law on Prevention of Discrimination against Persons with Disabilities covers solely discrimination on grounds of disability and protects only persons with disabilities and members of their households from discrimination.

Number of laws of general application explicitly provide for disability as one of various prohibited grounds for discrimination: Labor Law (Article 18), Law on Higher Education (Article 8), Law on Health Care (Article 20), Law on Basis of System of Education (Article 46).

Labor Law and Law on Employment and Insurance in Cases of Unemployment prescribe that provision of special protection and support to persons with disabilities to realize rights prescribed by the above- mentioned laws shall not be considered as illegal discrimination. Law on Prevention of Discrimination against Persons with Disabilities also prescribes that measures aimed at equalization and enhancement of status of persons with disabilities, their families and organizations shall not constitute acts of prohibited discrimination.

- Is it comprehensive (covering many areas of life) or just in some areas?

Law on Prevention of Discrimination against Persons with Disabilities prescribes for the general regime of prohibition of discrimination on grounds of disability, specific cases of prohibited discrimination of persons with disabilities, legal mechanisms and juridical proceedings for protection against discrimination, sanctions for perpetrators of particular acts of discrimination and measures for promoting social inclusion of persons with disabilities. The Law gives a broad definition of persons with disabilities that are entitled to legal protection, derived from the social model of approach to disability. It prohibits direct and indirect discrimination, victimisation,

instigation of discrimination, and particularly severe cases of discrimination.

Law on Prevention of Discrimination against Persons with Disabilities also prescribes which acts constitute prohibited discrimination in fields of proceedings in public authorities, membership in civic associations, access to public objects, goods and services delivered to the public, public transport, health care provision, education, employment and labour relations, family and marital relations. It also provides measures for promoting equalisation of opportunities for persons with disabilities. The UN Standard Rules inspire those provisions. It prescribes in great detail mechanisms of judicial protection and sanctions for perpetrators of particular acts of discrimination. The Law had been drafted in co-operation with Serbia's disability movement and human rights NGO.

- Is there a body in charge of monitoring this legislation? If yes, please explain briefly its functions.

Law on Prevention of Discrimination against Persons with Disabilities hasn't provided a specific body in charge of monitoring its' implementation. According to Law on Ombudsperson, one of deputy ombudspersons shall be in charge of protecting the rights of persons with disabilities. However, that public official has still not been elected by the Parliament, so in practice judiciary organs and ministries in charge of justice and social affairs can perform monitoring.

Labour inspectors monitor the implementation of Labour Law, while educational supervisors monitor implementation of legislation on education. However, in practice the above-mentioned organs hardly ever intervened because of discrimination on grounds of disability.

- Who can file a complaint because of discrimination- individuals, or organizations, or both?

According to Law on Prevention of Discrimination against Persons with Disabilities complaint in cases of discrimination on grounds of disability can be filed solely by persons with disabilities claiming to have been victims of discrimination, or that person's legal representative or guardian, if person has limited legal capacity. In cases of discrimination in labour relations a complaint may be filed by person with disability's household member that had been discriminated because he/ she lives in the same household and assists person with disability free of charge.

Organizations of persons with disabilities don't have an active legitimation and aren't entitled to file complaints to courts in cases of discrimination on grounds of disability, but DPOs provide support to their members. Some organizations, such as «...Out of Circle», an organization for protection and support to women and children with disabilities, provide free legal counselling and representation at court to all victims of discrimination on grounds of disability that apply for legal assistance.

- Does legislation provide for presenting the evidence by plaintiff or is the burden of proof transferred to the defendant?

Unlike the EU Directive 2000/ 78/ EC, Law on Prevention of Discrimination against Persons with Disabilities maintains that burden of proof in civic procedure in cases of discrimination on grounds of disability rests with the plaintiff, as prescribed for by the classic law of procedure. Thus in Serbia person with disability has to prove he/ she had been a victim of discrimination in order to win the proceedings.

**1.2.3. Is there a national plan or strategy for people with disabilities?**

Government of Serbia adopted National Strategy for Enhancement of Status of Persons with Disabilities in Serbia for 2007–2015. At the moment bi-annual action plans, measures and activities for implementation of the Strategy are being drafted. Serbia's DPOs participating in Working group that had been initiated within the framework of EDF- CARDS project took part in drafting of the Strategy. UNDP's office in Belgrade supported drafting of Strategy in 2006 through a joint task force with Ministry of Labour, Employment and Social Affairs.

**1.2.4. Does public procurement legislation take into account persons with disabilities, as foreseen in the EU directive?**

No.

**1.2.5. If your country has general social inclusion or anti-poverty strategies, would these include special focus on persons with disabilities?**

There is no general social inclusion strategy in Serbia at the moment.

Strategy for Poverty Reduction in Serbia stresses that persons with disabilities are one of the vulnerable social groups that are facing greater risk of impoverishment. The following comments had been adopted and incorporated in the final version of the Strategy: "It is very important that the support services exist in all important systems where the equal opportunities for realisation of human rights are ensured... Process of development of the support services should be based on the needs and initiatives of the organisations of the persons with disabilities. Financial and technical assistance to these initiatives should be provided by the state and by developed civil society organisations. Measure as well as activity of these strategic directions is development of services for support to PWD and their families".<sup>4</sup> Strategy also stressed the need to take measures in the fields of education of persons with disabilities, promoting their employment and increasing their employment rate. This was subsequently followed up by providing operational measures in National Employment Strategy. Poverty Reduction Strategy furthermore stressed the significance of accessible physical environment and transport as preconditions for full social integration of persons with disabilities.

**1.2.6. Does funding from international donors take into account persons with disabilities?**

Yes, most international donors- agencies and organizations of UN, USAID, DFID, CIDA, SIDA, Ireland Aid, Norwegian International Aid Agency, EAR, ECHO, HI, Oxfam and others- include needs of persons with disabilities as one of criteria for funding of their programs. Some of the above- mentioned organizations finance such programs through its' own or government institutions' projects, while other finance directly projects of local DPO. Organizations of persons with disabilities in Serbia received significant funds from foreign donors for realization of numerous projects during the past decade and many significant success in equalization of opportunities for persons with disabilities in Serbia were funded by foreign donors.

Still, one should bear in mind that obligation to guarantee accessibility is not implemented consistently and systematically through many international donations. For example, EAR financed infrastructure development projects but once the funds were transferred to Serbian authorities there was no monitoring of possible application of accessibility standards. OESC hasn't taken into account accessibility issues in the projects it funded in Serbia.

<sup>4</sup> Strategija za smanjenje siromaštva u Srbiji (Poverty Reduction Strategy in Serbia), Vlada Srbije, Aneks 1, p. 23-28

### **1.3 Consultation and involvement with DPOs (funding)**

#### **1.3.1. Is there a Government appointed body, which brings together representatives of Government and of disability organisations?**

Yes, Council for Disability Affairs of Government of Republic of Serbia.

#### **1.3.2. If yes, please explain briefly how it works, answering, among others, the following questions:**

- Does it meet regularly? If so, how many times a year?

The current Council had been set up by the Government that was elected in 2004. The previous Government of Serbia also had similar advisory body for disability affairs. Council's Plan of Activities provided for monthly meetings but in 2005 and 2006 many sessions of Council did not take place, or meetings were informal as there was no quorum. On the whole, Council held very few regular sessions.

- What is the exact composition?

Council consists of Director General of Ministry for Labour, Employment and Social Affairs, members are Deputy Minister in charge of Department for Protection of Persons with Disabilities, representatives of other ministries such as justice, health, capital investments (construction and traffic), culture, education (ministry councillors). It furthermore consists of 1 representative for each of the following DPOs: Blind Union, Deaf Union, Union of associations for persons with intellectual disabilities, Union of Labour Disabled and 1 representative for 4 organisations of persons with physical impairments. Members of the Council are also 1 representative of all DPOs from autonomous province of Vojvodina, 1 representative for each of the following cross- disability organisations: Centre for Independent Living of Persons with Disabilities and Association of Disabled Students, 2 representatives of associations of disabled war veterans as well as representative of Special Education Faculty.

- Who chairs the meeting?

Director General of Ministry for Labour, Employment and Social Affairs.

- At what level are Ministries represented?

Except Ministry for Labour, Employment and Social Affairs that is represented by Director General and Assistant Minister, all other ministries are represented by councillors and advisors.

- Are the decisions of this body binding?

Decisions of the Council are not legally binding as it is Government's advisory body, however they carry political and moral weight.

#### **1.3.3. Does the Government consult with disability NGOs when new disability policies are being prepared? What about general legislation which also affects persons with disabilities?**

After 2000 Government of Serbia attempted to consult disability NGOs in the course of preparation of new policies and drafting of new legislation pertaining to persons with disabilities either through the Council for Disability Affairs after 2002, or by including representatives of disability movement in the working groups that drafted policies and legislation.



However, the degree of transparency differed from one act and policy to the other. Law on Prevention of Discrimination against Persons with Disabilities, Law on Higher Education, draft Law on Professional Rehabilitation and Employment of Persons with Disabilities, Poverty Reduction Strategy and Strategy for Enhancement of Status of Persons with Disabilities are examples of good practice and successful involvement of disability movement in the drafting process. After the protests of persons with disabilities, Government proposed amendments to Customs Law and Law on Social Protection and withdrew Law on Protection of Disabled War Veterans from Parliament.

#### **1.3.4. Do disability NGOs obtain basic funding from the State?**

Yes, there are 3 forms of funding:

- a) All DPO receive funds for particular annual program activities at the same level per year for all organizations- one million dinars,
- b) Smaller number of organizations working at national level receive funds for material expenses and wages of permanent staff.
- c) Once a year Ministry of Labour, Employment and Social Affairs through Department for Persons with Disabilities announces grants for additional funding of projects that meet prescribed criteria at which all DPO can apply.

#### **1.3.5. If yes, explain briefly the system, including, among others, the answers to these questions:**

- Where does the funding come from (State budget, lottery, and other sources)?
- State budget, lottery.
- Is the annual amount stable?

Amount given for wages of permanent staff and material costs granted to a small number of organizations is stable, while funds for annual program activities change depending on the program activities of a particular organization and decision of the Department for Protection of Persons with Disabilities.

- Does the funding limit the independence of the disability NGO?

State does not interfere with personell policy of DPO, it's program activities and policy. In number of cases organizations funded by state nevertheless criticized state's policy or legislation they deemed contrary to the interests of their consticuencies. However, one can not exclude all possibility that some organizations funded by state occassionally refrain from more strong criticisms of the state since they receive funding from it.

- Are there an obligations related to this funding (annual work programme, justification of expenses)

Organizations are obliged to submit to Department for Protection of Persons with Disabilities proposal of annual program of activities, reports on implementation of activities and financial documents justifying the expenses.

- How much disability NGOs obtain funding and what are the criteria to obtain this funding?

Over 400 DPO receive funding from Ministry of Labour, Employment and Social Affairs: Organizations functioning at national level and through them their local branches as well. Ministry also finances work of national cross- disability organizations, coordinating board of

DPOs in Vojvodina province, and wages of permanent staff of number of national associations.

All DPO- national, regional and local- are entitled to apply once a year with their projects for Department for Protection of Persons with Disabilities of Ministry of Labour, Employment and Social Affairs once a year. Department approved grants for almost 160 projects in 2005.

Some national DPO receive funds for projects in the field of culture from Ministry for Culture and Media, while DPO that engage in sporting activities of persons with disabilities receive funds from Ministry of Education and Sports, in accordance with acts of above- mentioned ministries.

Local DPO can apply for funds for material costs, engagement of technical staff and program activities at local authorities but situation significantly differs from one municipality to other. Bearing in mind high degree of inconsistency of funding at local level, this subject matter should be additionally regulated in order to ensure uniform, fair and transparent criteria for funding of local DPOs by local authorities. Legal basis may be found in provisions of clause 4 of article 12 of Law on Local Authorities: "Municipal authorities can cooperate with non- governmental organizations, humanitarian and other associations in the interest of local autonomies and citizens of particular municipality".

### **1.3.6. Is disability the responsibility of only one Ministry or is it a shared responsibility among many Ministries?**

Disability affairs were primarily in the competence of Ministry of Labour, Employment and Social Affairs. This Ministry set Department for Protection of Persons with Disabilities up in 2004. Still, other ministries also deal with disability related issues from their competence. Some ministries, like Ministry of Education and Ministry of Culture, have small working groups or focus persons for disability affairs, while the other ministries have public servants that deal with disability issues if needs arise within the framework of their regular competences. Engagement of Directorate for Human Rights of Ministry of Foreign Affairs in process of drafting of the Convention on Rights of Persons with Disabilities is an example of a good practice.

## **2. SPECIFIC AREAS**

### **2.1 Education**

#### **2.1.1 Are you aware of disabled children who get no education at all? If so, please explain.**

Yes. According to the data of the Ministry of Education approximately 39 percent of children with disabilities do not finish elementary school or only finish a few grades.<sup>5</sup> According to the research conducted by Handicap International and Centre for studying democratic alternatives from Belgrade in 12 municipalities in 2001, almost 49 percent of children with disabilities do not finish their school. In its' input in the National Strategy for Enhancement of Status of Persons with Disabilities, the Ministry of Education also states the number of 85 percent of children with disabilities are outside of the education system, which is the number from some UNICEF reports, without quoting the specific information source.

#### **2.1.2 Is legislation protecting children and adults with disabilities from discrimination in the education system? Is so, does it include the obligation to provide reasonable accommodations for those pupils who so require?**

The Law on Prevention of Discrimination against Persons with Disabilities prohibits the

<sup>5</sup> Ministry's input to the draft of the National Strategy for Enhancement of Status of Persons with Disabilities in Serbia.



discrimination of persons with disabilities as far as education is concerned. It is prohibited to deny the enrollment or to exclude a child or a young person with a disability from an education institution on the grounds of their disability (Article 18). Further on, the Law prescribes that establishing non-disability as a special condition for the enrollment in an education institution is prohibited, unless this condition is not set up in compliance with the education regulations. Organizing special forms of learning, that is the education for children and youngsters with disabilities, who are not able to follow the mainstream education due to their insufficient intellectual abilities, will not be regarded as discrimination (Article 19). In this case, the organs in charge will adopt an act establishing the existence of a need for such education of a pupil, that is a pre-school child, on the basis of which the child will be enrolled in special forms of education. The Law on Prevention of Discrimination against Persons with Disabilities in general prescribes the obligation of a state, territorial autonomy and local authorities to take measures in order to ensure the education of persons with disabilities to be an integral part of the system of education (Article 36). This Law does not prescribe exclusively an obligation to provide reasonable accommodations for those pupils who so require.

The Law on Higher Education prohibits discrimination on the grounds of motor and sensor handicap (Article 8). The founder of educational institution is obligated to finance the conditions for the students with disabilities to study (Paragraph 13, Article 59). The Law on Higher Education also prescribes a possibility of taking examinations alternatively which does not interfere with the essence of the exam itself (Paragraph 10, Article 90) and organizing classes in Sign language (Paragraph 4, Article 80).

The Law on Basis of System of Education, inter alia, prohibits discrimination on the grounds of "physical and psychological constitution". However, as far as education of the children and youngsters with disabilities is concerned, the Law refers to it only in the context of the *segregated, special education* without any regulations about integrating the children and youngsters with disabilities in mainstream education institutions. The state offers certain support but only to the children attending special schools, which represents certain discrimination. There is also a selection of children when children are enrolled in special schools and kindergartens. Inclusion in the mainstream education system often depends on particular teachers and school administration's good will. Inclusion is easier in smaller towns where a parallel (special) education system does not exist.

### **2.1.3 Are there figures in your country about how many disabled children go to special schools versus education in mainstream education? Is there information available about type of disability of children in special schools?**

Ministry of education has the complete data on children with disabilities in the system of pre-school education only for children attending special development groups in the mainstream pre-school institutions: during 2003/4, 200 children with disabilities attended special development groups in 37 pre-school institutions in Serbia. Out of this number, 14 institutions with 100 children were located in Belgrade. The Ministry does not have the data on children with disabilities who are integrated in the mainstream peer groups in pre-school institutions.

As far as the elementary education is concerned, Ministry of Education has the complete data on children with disabilities who attend special schools and the special classes in mainstream schools, while it has only the incomplete, partial data on the number of children with disabilities who attend mainstream schools. In the input to the draft of the National Strategy for Enhancement of Status of Persons with Disabilities, Ministry of Education stated that 7,560 children with disabilities attended 51 special schools, while 1,374 children with disabilities attended special classes in mainstream schools in 2000/2001. According to the sample of 97 mainstream schools, it is established that 8,099 pupils with disabilities attend mainstream

classes in these schools.

According to the data of Ministry of Education, in 2005 the special classes for children with disabilities existed in 218 mainstream elementary schools in Serbia.

Out of 51 special schools in Serbia, 37 schools are for children with mild intellectual disabilities, 8 for children with hearing impairment, 3 for children with sight impairment, 2 for children with physical disabilities and 2 for children with behavioral disorders.

As far as secondary education is concerned, in the inputs to the draft of the National Strategy for Enhancement of Status of Persons with Disabilities, Ministry of Education provided the data on the number of special schools and special classes in mainstream schools. However, it did not provide the precise data on the number of youngsters with disabilities attending those schools. In Serbia, there are 25 special elementary schools for children with intellectual disabilities, 14 for youngsters with hearing impairment, 5 for young with sight impairment and 3 special schools for youngsters with behavioral disorder. As far as the mainstream schools are concerned, there are 11 special classes for youngsters with disabilities. Ministry of Education states that number of students varies between 50 and 90.

According to Ministry of Education, most of the children with disabilities who attend classes of mainstream schools are the children with milder intellectual and sensory disabilities, with dyslexia and similar forms of disabilities, and with physical disabilities. However, one should not forget that a great number of these children do not enroll or finish secondary education on regularly basis. Only 33 percent of persons with disabilities finish elementary school, according to the research conducted by Handicap International and Center for Studying Democratic Alternatives in 12 municipalities of Serbia in 2001.

#### **2.1.4. What support, if any, is available for children/youngsters with disabilities in mainstream education?**

According to the data of Ministry of Education in the input for the draft of the National Strategy for Enhancement of Status of Persons with Disabilities, the children and youngsters with disabilities who attend mainstream classes in mainstream schools practically do not enjoy any systematic support. Adequate programs also do not exist. Defectologists special pedagogical workers or teachers who, in addition to their mainstream education at the Faculty of Pedagogy, were also trained at the Faculty for Special Pedagogy and Rehabilitation defectology, work with children and youngsters with disabilities who attend special classes in mainstream schools.

Children and youngsters with physical and sensory disabilities who try to attend mainstream schools face the obstacles almost impossible to be overcome: Over 90 percent of mainstream elementary and secondary schools are inaccessible, the literature in accessible formats almost do not exist in these schools. Furthermore, there is lack of systematic approach to individualized work and offering support to the children and youngsters with disabilities in mainstream classes of mainstream schools.

The notion of inclusion in education should imply its realization by the teachers who work in the mainstream education system and who should be supported by authorities within clearly defined systematic solutions.

#### **2.1.5. What support is there available for University students with disabilities? Are there statistics about University students with disabilities?**

According to the Law on Higher Education, founder of educational institution is obliged to

finance the conditions for students with disabilities to study (Paragraph 13, Article 59). The Law on Higher Education also prescribes a possibility of taking examinations alternatively which do not interfere in the essence of the exam itself (Paragraph 10, Article 90) and organizing classes in Sign language (Paragraph 4, Article 80).

In practice, these law provisions are not implemented consistently. The systematical efforts aimed at making the University campus accessible have been done only in Novi Sad. In addition to this, an officer for students with disabilities has also been employed within the students' services in this town. In spite of the efforts of students' organizations and disabled people's organizations at other Universities, these did not reach further than nearly stating support for principle. Only few of the faculties of some universities undertake efforts to make buildings accessible and to make literature available for the students with a sensor disability. The Faculty of Law at the University of Belgrade represents a good example of efforts of the Faculty's management to make the building entirely accessible and provide equal possibilities of studying for the students with disabilities.

#### **2.1.6. Are the general vocational training centers accessible to persons with disabilities?**

As a rule, no. The Law on Employment and Insurance in Cases of Unemployment prescribes that persons with disabilities are a group of citizens in need of support in professional training and that the general programs of the National Employment Service have to be accessible to these persons. Due to the interventions of disabled people's organizations, the regulations on the programs intended for these persons were later added to the Strategy of Secondary Professional Training.

#### **2.1.7. Can blind, deaf and deaf blind children access education in special classes, own groups? If yes, is this education of the same level as mainstream education?**

According to the inputs of the Ministry of Education for the draft of the National Strategy for Enhancement of Status of Persons with Disabilities of Serbia, blind and deaf children attend special schools which work according to school curricula which are formally of the same level as mainstream education.

It should be pointed out that some school curricula for blind and visually impaired children and youngsters are outdated (for instance, these young people are still trained for a job of telephone operator in the era of digital telephony). In addition to this, according to the data of the Blind Union of Serbia, deaf blind children are included in neither special nor mainstream education system as a rule. Non-existence of the teachers trained for working with deaf blind children presents a special difficulty.

#### **2.1.8. Are there teachers who are qualified in sign language and/or Braille?**

Yes. However, the number of qualified teachers is too small comparing to the needs of children and youngsters who want to learn the Sign language and/or Braille.

#### **2.1.9. Is there training for teachers about the philosophy of inclusive education and how to help children with disabilities in the class?**

There is no such systematic training at the Faculty of Pedagogy. Teachers who teach in special classes of mainstream schools are additionally trained at the Faculty for Special Pedagogy and Rehabilitation defectology. Even though the philosophy of inclusive education gradually obtain its followers at the Faculty for Special Pedagogy and Rehabilitation, some experts have not adopted this philosophy yet and actively oppose the ideas of inclusive education for children

with disabilities.

## 2.2 Employment

### **2.2.1. Do you have legislation protecting persons with disabilities from discrimination in the workplace? If so, does it include the obligation to provide reasonable accommodation when so required by an individual?**

Yes. The Law on Prevention of Discrimination against Persons with Disabilities prohibits refusal of employment to person with disability and person who lives in the same household with this person that is as an assistant of a person with disability. It also prescribes that establishing special health conditions for employing person with a disability (unless law prescribes special conditions for performing certain type of work), and previous check up of mental and physical abilities which are not directly connected to performing certain types of work constitute prohibited discrimination (Article 22). An employer is obliged to make technical adaptations of the workplace on condition that the adaptations expenses are not born by the employer or are proportional to the profit which the employer can realize by employing person with disability (Article 22). The denial to make an adaptation represents an act of discrimination. Employing the candidate who has shown the best result at abilities test for that workplace doesn't constitute discrimination in the workplace based on disability (Paragraph 1, Article 23).

The Law on Prevention of Discrimination against Persons with Disabilities prescribes that a lower income for a person with a disability, independent of their results of work, represents the discrimination on the grounds of disability but awarding due to one's work results is not regarded as an act of discrimination. Establishing special conditions to a person with a disability is prohibited, unless these conditions result directly from the nature of the workplace itself (Paragraph 2, Article 24). Establishing special conditions for the realization of other rights in the area of employment is also prohibited, if these special conditions are not established for employees without disabilities (Paragraph 3, Article 24). A discrimination victim can ask for a protection from discrimination at court as stated in the Chapter V of the Law on Prevention of Discrimination against Persons with Disabilities.

The Labour Law from March 2005 also explicitly prohibits discrimination on the grounds of disability (Article 18). This prohibition refers to the direct and indirect discrimination in relation to a job search and getting employment, work conditions, training and professional rehabilitation, advancement at the workplace and termination of the labor contract. The victims of discrimination can submit a complaint for the compensation of damages in judicial proceedings. However, Articles 101 and 102 of the Labour Law which are about the protection of persons with disabilities, refer primarily to the labor disabled persons only, and not to other categories of persons with disabilities.

It should be noticed that the excellently established legal solutions on the protection from discrimination in the area of employment are rarely put into practice. There are no official statistics on number of court proceedings and some organizations of persons with disabilities have the sporadic data on a small number of individual cases when the discrimination victims tried to ask for the court protection. However, none of the trials resulted in the adjudication in favor of the plaintiff.

### **2.2.2. Are there financial incentives available to employers who employ persons with disabilities? If so, explain briefly the system, explaining:**

- Is the subsidy for workplace adaptations?
- Is it a financial incentive (lump sum)?

- Which are the conditions for an individual to get financial incentive?

The National employment service offers to the employers who employ persons with disabilities 90,000 dinars (about 1,110 Euro) for the workplace adaptation and coverage of the wages for their employees with disabilities in the period of one year. The fiscal legislation prescribes that the employers who employ persons with disabilities are also exempt from taxes and contributions for wages of the employees with disabilities in the period of three years.

In order for an employer to realize their right to covering the expenses of the workplace adaptation and salaries, it is necessary to apply at the National Employment Service (NES) and prepare necessary documentation.

From January 1<sup>st</sup> to December 31<sup>st</sup> of 2006, 316 persons with disabilities found their jobs through the above-mentioned programs of the National Employment Service. In the same period, about 23,000 persons with disabilities were registered as unemployed at the National Employment Service.

**2.2.3. Do you have a quota system in your country? If yes, please explain briefly how it works:**

- Percentage of quota and size of employers obliged by quota
- Does it oblige all employers (public, private, and not profit)?
- Is the quota system monitored? Does it work?
- Are there alternative measures to the quota system?

No.

The Law on Professional Rehabilitation and Employment of Persons with Disabilities has been in the process of preparation. The draft prescribes meeting the quota of employment of persons with disabilities for all employers who employ 20 people or more. Quota will be higher for the organs of public authorities and public institutions. Employers who do not meet the prescribed quota obligations will be obliged to pay the sum of 50 percent of wages that would've been given to disabled employee for every person with a disability they did not employ in compliance with the prescribed quota until they meet their quota obligations. The organs of authorities will have to pay 2 percent of the total sum set for wages until they do not meet the quota prescribed by law. The means collected in this way will be used for the promotion of employing persons with disabilities.

**2.2.4. Are there sheltered workshops? If so, please explain briefly the system, answering, among others, the following questions:**

- Number of workshops and number of workers with disabilities
- Do workers have a labor contract? Do they earn at least the minimum wage? Are they covered by general law regulations?

Yes.

The current Law on Professional Rehabilitation and Employment of Persons with Disabilities of the Republic of Serbia, from 1996 regulates professional rehabilitation and employment of persons with disabilities who cannot be employed at the open labor market.<sup>6</sup> These persons are employed in the companies for professional rehabilitation and employment of disabled people, i.e. in sheltered workshops. According to the Law, the company must fulfill the following conditions: the company for professional rehabilitation and employment of persons with disabilities can be established and work on condition that it has at least 40 percent of persons with disabilities among their employees, that it has the adequate premises, the adequate

<sup>6</sup> "Official Gazette of the Republic of Serbia", No. 25/96



technical and other equipment and the professional employees for rehabilitation of persons with disabilities. The number of professional employees is proportional to the number of persons with disabilities. The company must employ at least one person, who, according to the regulations from the education area, fulfills the conditions for a teacher of practice for the profession for which the persons with disabilities are trained, and at least one person who has one of the following titles: sociologist, psychologist, pedagogue or defectologist.

A person with a disability is employed in a company without public advertisement with NES acting as a mediator (Article 14). The person with disability and the student from Article 4 of the Law can perform the job activities for which they have been employed at home, provided that the job activities can be performed at home (Article 15).

According to Article 17 of the Law, the means for professional rehabilitation of persons with disabilities are provided for in compliance with the Law. The means are provided for the company monthly from the budget of the Republic of Serbia per every employee with a disability. This amount is up to 50 percent of the average earning per an employee in the Republic, according to the last published data of the republic organ in charge of the statistics (Paragraph 1, Article 18). The means from the paragraph 1 of the Article 18 of the Law are transferred to the Ministry in charge of labor to special account within the regular ministry account (Paragraph 2, Article 18). The Ministry transfers these means to the company (Paragraph 3, Article 18). The means provided for a company regarding the professional rehabilitation of persons with disabilities can be used for these purposes only (Article 19).

According to the data from 2005, 74 sheltered workshops work in Serbia, out of which 61 fulfill the conditions for being financed from the republic budget. The total number of employees in these workshops is 6,045 out of which 3,206 are persons with disabilities. All regulations about the rights in the area of employment are applied to the employees in sheltered workshops. However, in practice, in some of these workshops, the status of person with disabilities is far from envious due to the fact that the workshops, as a rule, operate at a loss as and the earnings are owned to the employees. In addition to this, some persons with disabilities work in sheltered workshops only to fulfill the legal conditions for the early disability pension.

The reform of companies for professional rehabilitation and employment of persons with disabilities is needed: on one hand, they have to be reformed in order to be able to operate at open market, through modernization and connection with trade. The financial support from state prescribed by the Law should continue as well. On the other hand, these companies should grow into regional centers for professional rehabilitation.

***2.2.5. Is there support available for a person with disabilities who wants to become self employed or member of a cooperative?***

Yes.

The persons with disabilities who would like to become self employed and start their own business can apply for the means at the National Employment Service. During 2005, the sum of these means intended for starting one's own business was 140,000 dinars (about 1,750 Euro). A relatively small number of persons with disabilities used the self-employment programs. Since these programs have only begun to be conducted, it is difficult to give possible prognosis on their long-term effects. However, having in mind the general suggestions on raising the employment rate through self-employment, enterprises, small and middle businesses, the above-mentioned programs can be a useful tool in the reforms of employment of persons with disabilities. According to the research done by ILO, social cooperative for employment of persons with disabilities, which would use the experiences of other countries and traditional sheltered workshops in Serbia, can give the valuable contribution to encouraging the employment of

persons with disabilities.<sup>7</sup>

**2.2.6. Are there measures foreseen for people who become disabled during their working life? If yes, please describe briefly?**

Yes.

Further on, the Labour Law prescribes that if an employee is not longer able to perform certain type of work due to his/her decreased working ability, an employer is obligated to offer him/her another job in compliance with the rest of the employee's working ability (Article 101). The employee can be dismissed only if he/she refuses to accept the adequate workplace, which has been offered to him/her (Article 102).<sup>8</sup>

It should be noticed that these provisions of the Labour Law are often violated in practice and that the labor disabled persons are, as a rule, at the top of the lists for the technological surplus of the employees who should be dismissed. They rarely decide to apply for court protection of their rights.

The persons, who lose their working ability entirely due to an injury at work or professional illness, go into disability retirement. The regulations on pension-disability insurance also prescribe certain allowances for a physical impairment but the number of the beneficiaries of these rights is small: out of almost 375,000 labor disabled persons, only 4,162 enjoyed this compensating right. The average sum they received as compensation on monthly basis was only 1,284 dinars, i.e. 16 Euro a month!

**2.2.7. Are general labor market measures (mediation and placement services) accessible to persons with disabilities?**

Only partially. Out of 24 local branches of the National employment service, only 2, the ones in Belgrade and Novi Sad, are entirely accessible to persons with disabilities. In other 22 there are employees in charge of providing services only to unemployed persons with disabilities but the buildings and infrastructure in these branches are inaccessible.

**2.2.8. Does a person lose their right to disability pension if they get employed?**

Yes.

**2.3 Access to health and rehabilitation**

**2.3.1. Is the general health system accessible to persons with disabilities? For instance, can a deaf person interact in sign language? Are hospitals wheelchair accessible?**

At the moment, a great number of health institutions are inaccessible to persons with disabilities. The research conducted by Handicap International and Center for Studying Democratic Alternatives in 12 municipalities of Serbia in 2001 shows that 56 percent of the persons surveyed think that health institutions are not entirely or partially accessible to them! Even though the Law on Health Care of Serbia is based on the principles of accessible health care and equalization i.e. non-discrimination in provision of health care, many health care institutions are inaccessible in practice. The Law prescribes that health care must be physically, economically and geographically accessible to the citizens of the Republic of Serbia, especially the primary health care (Article 19). *Discrimination in providing health services, among other things, based on*

<sup>7</sup> The data collected for the International labour organization ILO during 2005.

<sup>8</sup> H. Lerentveid, B. Rausenbah, D. Tatic, R. Savcic, S. Puaca: Integration step by step. Report development of policy of employing persons with disabilities in Serbia, Belgrade, 2006, page 15-16

*psychological and physical disability is prohibited* (Article 20). Nevertheless, many hospitals are inaccessible to wheelchair users, while a deaf person, who wants to use the services of a sign language interpreter when visiting a health institution, must pay for it by himself/herself.

The National Investment Plan in 2006 prescribes that all health centers in Serbia should be adapted in accordance with the accessibility standards, which would be a significant step towards the provision of the legally guaranteed accessibility of the primary health care to persons with disabilities.

### **2.3.2. Are sexual and reproductive health services provided to women and men with disabilities?**

There are no legal obstacles towards the realization of the right to the sexual and reproductive health services provided to women and men with disabilities but in practice, there is a very small number of accessible health institutions in which they can realize their rights. The gynecological ordinations, which are accessible to women with disabilities, exist in only few great cities in Serbia. Additional difficulties represent widespread prejudice regarding parenthood and sexuality of women and men with disabilities.

### **2.3.3. Are there sufficient rehabilitation centers for persons with disabilities?**

No.

Article 44 of the Law on Health Insurance of Serbia also prescribes that the mandatory insurance covers 100 percent costs for medical check-ups, treatment and rehabilitation in case of an injury and illnesses of persons who have severe mental or physical disorder. The insurance also covers costs of medical check-ups and treatment of multiple sclerosis, progressive neuro-muscular diseases, cerebral palsy, paraplegia and quadriplegia, as well as costs of the medical-technical equipment relating to the treatment of the injuries from the Paragraph 1 of this Article. This Article prescribes the coverage of at least 80 percent of the price of health services, among other things, for house treatment and rehabilitation in an institution. Article 50 prescribes that the full health care, without participation, should be provided to disabled war veterans and civil war victims, blind persons, permanently disabled persons or persons who have realized the right to the allowance of other person's care and assistance.

### **2.3.4. Do you know of situations in which persons with disabilities have been denied health treatment because of the severity of their disability?**

Yes. Persons with intellectual disability, autism or psychosocial conditions are especially facing the denial of health treatment in health care institutions in the public sector.

The Law on Prevention of Discrimination against Persons with Disabilities prescribes that denying health treatment to persons with disabilities, or establishing special conditions for providing these services, which are not justified by medical reasons, refusing to make diagnosis or non-providing information of a persons with disability's health condition, represent particularly serious acts of discrimination (Article 17).

Article 253 of the Criminal Code is deals with the criminal act of denying medical help: A criminal act occurs only if the denial of medical help results in death or serious health violation. The practice shows that persons with disabilities are faced with the denial of medical health in the cases when this does not result in serious health violation but it does result in harmful consequences - for instance, the denial of dental services has such consequences.



**2.3.5. Are assistive devices available and affordable to persons with disabilities who so require? Please explain briefly the answer.**

Article 34 of the Law on Health Insurance of the Republic of Serbia prescribes that the rights to health protection, among other things, also includes medical technical devices: prosthesis, orthosis and other orthopaedic equipment for walking, standing and sitting, for sight, hearing, speech, dental devices and other aids (Article 34). Article 44, among other things, prescribes that the mandatory insurance also covers 100 percent of the costs of medical technical equipment regarding the treatment of injuries and diseases from Paragraph 1 of this Article. The criteria and process for realisation of the right to auxiliary equipment are further prescribed by the Regulation on Medical and Technical Aids Funded from the Resources of the Mandatory Health Insurance. However, this by-law has made the conditions for realisation of the right to auxiliary equipment stricter and in practice persons with disabilities face numerous difficulties in realisation of the right guaranteed by the law. When signing a contract with manufacturers and distributors of equipment. Health Care Institute was guided primarily by the price of an aid. As a result of this policy, persons with disabilities are often forced to participate in paying the aid, or use the aids of lower quality. Some necessary aids are not at the aid list at all (for instance, respirators for persons with paraplegia and quadriplegia and neuromuscular diseases), while for some of them the Regulation prescribes unreal expiration terms and terms for free periodic repairs/changes of parts.

**2.3.6. Is a person with disabilities obliged to undergo rehabilitation to have access to any disability-related benefits?**

No.

**2.3.7. Can persons with disabilities access health insurance and life insurance in a non-discriminatory way?**

Yes.

Article 22 of the Law on Health Insurance of the Republic of Serbia prescribes that, among others, persons with disabilities and persons with mental deficiencies are regarded as the insurance beneficiaries too. The right from the mandatory health insurance also covers the right to health protection, allowance for the time of temporary prevention to work and transportation allowance related to using health protection (Article 30). The right to health protection, among others, also includes prevention, check-ups and treatments of a disease, dental examinations and treatment, rehabilitation, medications and medical means and medically technical aids (Article 34). Article 44 prescribes that the mandatory insurance should cover the following things for the insured: 100 percent of the cost for check-ups, treatment and rehabilitation in case of an injury or illness of persons who have severe mental or physical developmental disorder, then check-ups and treatment of multiple sclerosis, progressive neuromuscular diseases, cerebral palsy, paraplegia and quadriplegia, as well as medically technical equipment relating to treatment of injuries and diseases from Paragraph 1 of this Article. This article prescribes the coverage of at least 80 percent of the costs of health services for, among other things, home treatment and rehabilitation in a rehabilitation center. Article 50 prescribes that the full health protection without participation should be provided for, among others, disabled war veterans and disabled civil war victims, blind persons, permanently disabled persons and persons who have realized the right to the allowance of other person's care and assistance.

## 2.4 Community living (institutionalization, support to families, personal assistance)

### 2.4.1. Are there institutions for persons with disabilities? If so, can you please provide the following information:

- Number of institutions and number of persons with disabilities
- Which groups of persons with disabilities would usually be in institutions?
- Are there children with disabilities in institutions?
- Are persons with disabilities forced to live in these institutions? If so, who takes the decision?
- Are there official plans to close institutions? If so, how are they going to be conducted?

Yes.

The Law on Social Protection and Provision of Social Security To Citizens of Serbia prescribes that a service beneficiary can be sent to a social protection institution for housing, food, clothing, care and help, as well as education, training for certain working activities, occupational, cultural and recreational rehabilitation activities (Article 36).<sup>9</sup> Law prescribes that "children with mild, moderate and severe mental deficiencies, multi-deficiencies, children with autism, the children with developmental physical disorder who are not able to stay in their family (...), adults with physical and sensory impairments, the persons with difficult chronic diseases and persons with mental disorders who are not able to live in their families independently..." (Article 37) have a right to accommodation in the institution. Even though the Law prescribes that the centers for social work are obligated to examine the conditions for accommodation of potential beneficiaries out of institutions, until the beginning of the new millennium the common practice in Serbia was placing persons with disabilities in institutions, even placing young persons with physical disabilities in nursing homes for old people, or placing persons with intellectual disability in the mental health institutions with persons with psychosocial impairments. The efforts to organize support services for persons with disabilities out of institutions began only in 2000, primarily through pilot projects.

The total number of institutions for long-term housing of persons with disabilities in Serbia is 20. Out of the above-mentioned 20 institutions, 9 of them are for long-term housing of children and youngsters with disabilities.

Out of those 9 institutions for children and youngsters with disabilities, 8 are for children and youngsters with intellectual disabilities and 1 is for children and youngsters with autism.

Out of the above-mentioned 8 institutions, 4 of them provide the housing for children as well as for adults with intellectual disabilities but in the separate parts of the institutions.

In these 9 institutions there are 2470 children and youngsters with disabilities at the moment.

There are 11 institutions that house exclusively adults with disabilities: 2 house persons with physical disabilities, 2 house persons with psycho-social disabilities, 1 houses persons with visual impairments and 6 house persons with intellectual disabilities.

The total number of residents of 11 above-mentioned institutions that house adults with disabilities in Serbia is 2895.

The total number of residents of 20 above-mentioned institutions that house persons with disabilities in Serbia is 5365, including adults, children and youngsters.

<sup>9</sup> „Official Gazette of Serbia”, No. 36/91, 79/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/ 2001, 84/ 2004, 115/2005.

#### **2.4.2. Are there any services available for persons with disabilities who need support to live in the community?**

Currently, persons with disabilities in Serbia use the services intended primarily for older persons. These services are insufficient for enabling persons with disabilities to live in the community.

The Law on Social Protection and Provision of Social Security To Citizens of Serbia prescribes different models of social protection whose beneficiaries are persons with disabilities too.<sup>10</sup> Article 31 of the Law prescribes that older, weary, chronically ill persons and other person who are not able to take care of themselves have a right to house help which include housework cleaning, supplying, personal hygiene. In some cities (for instance, Belgrade), the beneficiaries of this service are persons with disabilities too. However, this service is intended for older persons and its organization implies that one housekeeper provides services to a few beneficiaries who live in certain territory and who do not control the quality of the service.

The Law, inter alia, prescribes the right to day care for children with developmental physical or mental disorders, children with autism. Adults are also entitled to housing at an institution if the day care is the most purposeful model of protection, which depends on the level and type of disorder of an adult and is evaluated individually (Article 33).

Currently, the Sector for Protection of Persons with Disabilities of the Ministry of Labor, Employment and Social Policy has been preparing the projects for housing persons with intellectual disabilities with support and the projects of day care for persons with disabilities in 5 towns of Serbia. This represents a step forward in the promotion of the support to persons with disabilities out of institution and indirectly leads towards long-term closure of the institutions.

#### **2.4.3. Within the process of decentralization, are the services and programs for persons with disabilities planned at the community level?**

The Law on Prevention of Discrimination against Persons with Disabilities of Serbia prescribes that local authorities should encourage the establishment of the support services for persons with disabilities, due to the increase of the level of independence of these persons and realisation of their rights (Article 32).<sup>11</sup> However, there are no regulations on prescribing regular sources of financing the support services provided by Article 32, criteria, acts, standards and mechanisms for guaranteeing the quality of the support services from Article 32 of the Law.

Several municipalities have begun creating different services – day cares, house care, housing with support, personal assistance services – in cooperation with the organizations of persons with disabilities and with the support of the Ministry in charge. These efforts are not systematical, and often lack the quality standards of services, developed criteria, mechanisms of beneficiaries' control and permanent budget means.

#### **2.4.4. Is there a personal assistance system in your country? If yes, please explain briefly its main characteristics (number of beneficiaries, funding system, qualification of personal assistants).**

No, it isn't part of the regular system of social protection guided by the state and local authorities. From 2004 to 2006, the Ministries in charge of social policy supported the pilot project of personal assistance services conducted by the Center for Independent Living of Persons with

<sup>10</sup> „Official Gazette of Serbia”, No. 36/91, 79/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/ 2001, 84/ 2004, 115/2005.

<sup>11</sup> Official gazette of Republic of Serbia, No. 36/91, 79/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/ 2001, 84/ 2004, 115/2005.

Disabilities of Serbia in 5 towns.

Provisions of article 32 of *Law on Prevention of Discrimination against Persons with Disabilities* were already discussed above (see answer to question 2.4.3). This regulation came to power on January 1<sup>st</sup> 2007 (Article 53). When interpreting this regulation, one should have in mind that the state should establish the unique standard of services, which would be provided in all local environments. This should be done in partnership with the organisations of persons with disabilities, guaranteeing the continuous application of the principle of the beneficiaries' control of the quality of services and standards.<sup>12</sup>

The Law on Social Protection and Provision of Social Security to Citizens of Serbia *establishes the right to the allowance for other person's care and help. It defines as the beneficiaries the persons who, due to their difficult condition and disease, are in need of help and care for performing different activities and meeting their basic living needs* (Article 23).<sup>13</sup> By amending the Law in 2005, a new article 25a was added by which persons with physical disabilities of 100 percent obtain the increase of the allowance for other person's care and help. This sum can hardly cover the full cost of hiring a personal assistant but it certainly represents the foundation for direct payment from which beneficiaries can engage personal assistants.

After the three-month project conducted at the end of 2000 and at the beginning of 2001, Center for Independent Living of Persons with Disabilities of Serbia organized the pilot project of personal assistance service in 5 towns of Serbia - Belgrade, Smederevo, Jagodina, Leskovac and Sombor (in this town from 2005). Service was organized with the support of the Government of Ireland, Catholic Relief Service and the Government of the Republic of Serbia (Ministry of Social Policy, that is the Ministry of Labor, Employment and Social Policy) from spring 2004 to January 2007.

#### **2.4.5. Are parents of disabled children provided with support so that the child can stay in the family? Do parents give away their disabled children to institutions?**

Yes, but this support is insufficient.

The Labor Law from 2005 prescribes that parents of children with the most severe types of disabilities should have the right to be absent from work or work part-time until the children turn five years of age (Article 96). They can use this right after they had used the maternity leave and their absence due to care of the children. The parent has the right to wages for the working hours that he/she spend at work while for the rest of the working hours, he/she has the right of the allowance in accordance with the law. A parent, a foster parent or a person who takes care of a child with cerebral palsy, polio, plegia, muscular dystrophy and other severe diseases has the right to work on a part-time basis, but this period should not be shorter than a half of working hours (Article 98).

The Law on Financial Support to Family with Children subscribes the allowance during the absence from work because of the special care of a child as well as the allowance for paying the kindergarten for children with developmental disorders. However, the Law prescribes that the right to this allowance for kindergarten can be realized only by the families who already have the child's allowance for the children with developmental disorders (Article 24).

The above-mentioned rights are sometimes not enough for a family with a child with disabilities to overcome all the challenges they face as a result of which some parents give away their

<sup>12</sup> *Zakon o sprečavanju diskriminacije osoba sa invaliditetom, Predgovor: D. Tatić*, (2006), Beograd, p. 24- 25.

<sup>13</sup> Official gazette of Republic of Serbia, No. 36/91, 79/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/2001, 84/ 2004, 115/2005.

disabled children to institutions. The widespread prejudices towards persons with disabilities, especially in villages, also contribute to the parents' decision to give away their children with disabilities to institutions.

## **2.5 Access to information**

### **2.5.1. Is sign language recognized as an official language in your country?**

The Law on Higher Education and the Law on Basis of the System of Education prescribe for a possibility of lecturing in sign language. However, in practice, education in sign language is primarily conducted in special schools for deaf and partially deaf children.

The Law on Prevention of Discrimination against Persons with Disabilities prescribes that the denial of rights, establishing special conditions for the realisation of the rights for persons with disabilities, the denial of rights by conducting the discretionary right if the denial is on grounds of disability, conducting proceedings in such a way that it disables or complicates the realisation of rights, constitute the prohibited cases of discrimination in front of the organs of public authorities (Article 11). This article should be interpreted in a manner that would guarantee the right to the use of sign language in official proceedings. The Law also prescribes the obligation of the organs of public authorities to take measures for the realisation of the equality of persons with disabilities in the proceedings conducted in front of these organs (Article 34). These measures should also include the right to the use of sign language in administrative, civic and criminal proceedings, the proceedings for misdemeanours, and other proceedings.

Whether the sign language can be used in the official processes depends on how one interprets legislation prescribing for administrative, civic and criminal proceedings. Sometimes, in practice, it comes down to the discretionary authorization of the organ in charge of the concrete proceedings.

Ministry of Justice issues the licenses to the interpreters for sign language who can be engaged as an official interpreter in administrative, civic and criminal proceedings.

The Law on Public Information prescribes the obligation of the organs of authorities to provide the access to information to persons with disabilities but it does not elaborate further measures for conducting the provisions of the Article 5 of the Law.

News with the simultaneous interpretation to sign language is broadcasted at the National television every day at 4 P. M. One of the private TV stations with the national frequency broadcasts the afternoon news with the simultaneous interpretation to sign language every day.

### **2.5.2. How and where do deaf persons learn sign language?**

Deaf persons learn sign language in their family, special schools, the local organizations of deaf and partially deaf persons organize the training courses and the Union of Deaf of Serbia organizes the school of sign language for the people who are interested in it. Sign language can also be learned as an optional subject at the adequate department of the Faculty for Special Pedagogy and Rehabilitation in Belgrade.

### **2.5.3. Are blind children and adults taught Braille? If so, where and how?**

Yes, in special schools for blind and partially blind persons, the republic and local organizations of blind persons occasionally organize the training courses of Braille for the people who are interested in it.

#### **2.5.4. Can blind people get official documents in Braille?**

No.

Sometimes the organs of authorities send official documents in electronic formats, which can then be printed in Braille in the organizations of blind persons or be read by the adequate software.

As an example of a good practice, it should be stated that some of the home manufacturers of medication, such as Hemofarm, print the basic parts of the instructions for the use of medications they produce and distribute, in Braille.

The regulations of Articles 11 and 34 of the Law on Prevention of Discrimination against Persons with Disabilities have already been mentioned (look at the answer of the question above 2.5.1). The Law also prescribes the obligation of the organs of the state, territorial autonomy and the local authorities in charge of culture and media to take measures for the provision of access to information and communication to persons with disabilities by the use of adequate technologies (Article 35).

#### **2.5.5. Are there sufficient sign language interpreters? Who provides the training to sign language interpreters?**

No.

It has been already mentioned that the Union of Deaf Persons organizes the training of sign language for the people who are interested in it. Sign language can also be learned at the adequate departments of the Faculty for Special Pedagogy and Rehabilitation in Belgrade but only as an optional one-semester course. Some of the sign language interpreters practically learned the basics of this language through daily communication with their parents and other family members who are deaf persons.

#### **2.5.6. Can a deaf person interact with public authorities through sign language? If so, who covers the cost of the interpreter?**

Yes.

Jurisdictional and administrative organs in charge of proceedings, in some cases interpret the general regulations on the use of an interpreter so that a party to the proceedings that engage a sign interpreter has to pay for his/her service by himself/herself. This is not in accordance with Articles 11 and 34 of the Law on Prevention of Discrimination against Persons with Disabilities. In some cases, the costs of engagement of an interpreter for sign language in law proceedings are covered by court, by the application of the institute of a so-called "poor law" (in case of which the state covers all the expenses related to the proceedings due to the fact that the party to the proceeding has low income) i.e. through the fiction that the income of the party in proceeding is not enough for him/her to pay the interpreter.

## **2.6 Protection against torture, violence and abuse**

### **2.6.1. Are you aware of instances of forced medication, forced treatment (electroshock, etc.) applied to persons with disabilities?**

Article 44 of Law on Health Care of Serbia prescribes that in cases when physician, specialist psychiatrist or specialist neuropsychiatrist estimate that a person with mental/ psychiatric condition presents a threat to his/ her own life or property, or life or property of others, they can commit that person to a mental health institution. Such a person may be admitted to an institution without a consent, but the medical board of the institution is obliged to determine



whether person will remain in the institutions on the next day after the admittance and is obliged to inform the competent court about its' decision within 48 hours.

The Law on Health Care provides fines ranging from two hundred thousand to one million dinars for health care institutions that perform medical measures on a patient against his/ her will, or without legal guardian's consent for persons without legal capacity. The same fine is applied to health care institutions that fail to take measures to protect the rights of its' patients, or fail to inform the competent court about forced institutionalization within the 48 hour deadline. The responsible health care professional that committed any of the above- mentioned acts will be fined from thirty to fifty thousand dinars (article 259).

In cases of behavior disorders persons are treated by medication as a rule, while the other methods of treatment recognized internationally are usually not applied.

**2.6.2. Is there any specific legislation protecting persons with disabilities from violence and abuse? If yes, please provide information.**

No, general provisions on prohibition of domestic violence prescribed by Family Code of Serbia and provisions of Criminal Code sanctioning criminal offences of neglecting a minor, and domestic violence, apply to persons with disabilities as well.

Section 9 of Family Code prescribes for protection from domestic violence. Code inter alia prescribes that instigating a sexual relation upon or having sexual relation with an "infirm person" constitutes an act of prohibited domestic violence (Sub- paragraph 4 of Clause 2 of Article 197).

Criminal Code prohibits the criminal offence of abandonment and abuse of minors in a general way and prescribes sanctions for perpetrators in Article 193. Article 194 prohibits criminal offence of domestic violence and prescribes sanctions for perpetrators in Article 194. However, Criminal Code does not prescribe more strict sanctions for perpetrators of criminal acts prohibited in Articles 193 and 194 if the victims of above-mentioned crimes were women or children with disabilities.

**2.6.3. Can a person with disability be sterilized against his/her will?**

No.

**2.6.4. Can parents (or others) decide to sterilise a child with disabilities?**

No.

**2.7 Legal capacity, access to justice**

**2.7.1. Can persons with disabilities be deprived of their legal capacity (capacity to act)? If yes, please explain how this works:**

- Who takes the decision?
- Is somebody nominated to take decisions on behalf of the person with disabilities (guardian, tutor)?

Family Code prescribes that parental care over a child may be extended after child's 18<sup>th</sup> year if "child is incapable of taking care of its' interests and rights, or endangers them due to illness or challenges in psycho- physical development" (Article 85). Such a broad legal definition may be easily abused in practice, and one has to bear in mind the wide- spread prejudice that persons

with any type of disability cannot take care of their rights and interests at all. Family Code prescribes procedure for exercise of parental care in Articles 261 to 273.

Section 6 of Family Code prescribes for legal guardianship. Article 124 provides that a guardian will be appointed to an adult whose legal capacity has been restricted. Competent organs usually appoint person's spouse, relative or care giver as guardian, unless that is contrary to the interests of the person whose legal capacity is limited. Persons whose legal capacity has been completely or partially restricted, whose parental rights has been restricted, whose interests are contrary to the interests of the ward, as well as persons that cannot be expected to regularly perform duties of legal guardian due to his/ her relation to his potential ward, ward's parents or other relatives, cannot be appointed as guardian.

Family Code prescribes for restriction of the legal capacity of any person that is "due to illness or challenges in psycho- physical development, not capable to reason normally and thus is incapable of taking care of him/ herself and his/ her rights and interests" (Article 146). Article 147 prescribes that, "if an adult that due to illness or challenges in psycho- physical development directly endangers his/ her own rights and interests, or rights of interest of other, his/ her legal capacity can be partially restricted". Court's decision on limiting one's legal capacity determines which activities that person is capable of performing on his/ her own (Clause 3 of Article 147). The decision on restriction of one's legal capacity is adopted in non- litigious procedure (Clause 1 of Article 149).

Family Code prescribes for procedure of putting a person under legal guardianship in articles 329 to 340. Center for social welfare, that is organ in charge of guardianship, initiates proceedings ex officio. The proceedings are prompt, decision has to be adopted no later than 30 days after court delivered its' decision on restriction of one's legal capacity. Once center determines that conditions prescribed for by the law are fulfilled, it delivers its' decision on appointment to person that is appointed as guardian. Guardian and a person that has legal interest in the matter can submit an appeal to the ministry in charge of family affairs. Center for social welfare can revoke a guardian if he/ she does not fulfill his/ her duties at the initiative of a ward "that is capable for reasoning" and person that has a legal interest in the matter.

**2.7.2. Are there support systems available for persons with disabilities who require support in decision making? If so, please describe briefly, including safeguards against abuse.**

A ward capable of reasoning, his/ her guardian, as well as a person with a legal interest in the matter may submit a complaint against all decisions of Centre for social welfare in matters pertaining to legal guardianship.

**2.7.3. Are there barriers for persons with disabilities in their access to justice?**

Guardian represents persons whose legal capacity is restricted in all judicial and other proceedings.

Persons with different physical disabilities face various environmental barriers when attempting to access judiciary.

Deaf persons in practice sometimes face difficulties when they attempt to engage a sign language interpreter.

Blind persons sometimes face challenges pertaining to accessibility of official documents in judiciary proceedings, as above- mentioned documents can hardly ever be found in accessible format.



Law on Prevention of Discrimination against persons with disabilities prescribes that public authorities that conduct proceedings in a manner that de facto prevents realization of rights of persons with disabilities thereby commit prohibited acts of discrimination.

## **2.8 Electoral rights and participation in political life**

### **2.8.1. Are polling stations accessible to persons with disabilities?**

All polling stations are not accessible for persons with disabilities but electoral laws provided that in cases when a person with limited mobility cannot access the polling station members of electoral board go to that person's place residence at his/ her invitation in order to enable him/ her to realize electoral right by casting a vote into a subsequently sealed envelope, with a voting procedure that guarantees secrecy of voting.

At 2006 parliamentary elections authorities put effort into making as many polling stations accessible as possible, however number of accessible polling stations is still too small. Persons that live in residential institutions cannot vote there if they have remained registered at their original places of residence prior to moving to institution.

### **2.8.2. Are there people with disabilities who are not allowed to vote?**

Adults that have restricted legal capacity cannot vote, as well as minors.<sup>14</sup>

### **2.8.3. Can all persons with disabilities vote on their own? If they can't vote on their own, can they be assisted by a person of their own choice?**

In practice, persons with disabilities that come to polling station may realize their right either with assistance of a person they choose, or a member of election board of their choice.

Law on Prevention of Discrimination against Persons with Disabilities prohibits discrimination in the field of membership in civic associations.

## **2.9 Social protection**

### **2.9.1. Are disability-related expenses covered by the State (assistive devices, personal assistance, etc.)? Please explain briefly how the system works.**

Only partially and not in a satisfactory manner.

Law on Social Protection and Provision of Social Security to Citizens of Serbia provides for various forms of social protection whose users are persons with disabilities as well.<sup>15</sup> Law prescribes for right to allowance for other person's assistance and care for users that, due to severity of condition or illness, need other person's assistance and care in performance of basic daily activities (Article 23). The 2005 amendments to the Law provide for an increase in the amount of allowance for persons with 100 % bodily impairment (new Article 25a).<sup>16</sup> The sum provided can hardly cover full price of engagement of a personal assistant, however it is a basis for direct payments to users from which users can hire a personal assistant (see the segment of the Report on living in community).

<sup>14</sup> According to electoral laws on election of Parliament members and President of the Republic, as well as Law on Local Authorities, persons whose legal capacity is restricted aren't allowed to vote.

<sup>15</sup> „Official Gazette of Republic of Serbia“ No.36/91, 79/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/ 2001, 84/ 2004, 115/2005.

<sup>16</sup> See section 2.3.3. of this Report

There is no allowance that would compensate additional costs of disability, save for disabled war veterans that have particular category of impairment.

In practice, persons with intellectual disabilities were facing serious obstacles when attempting to realize their right to allowance for other person's assistance and care after the 2005 amendments to Law on Social Protection and Provision of Social Security to Citizens of Serbia.

Former Federal Law on Rights of Combatants, Disabled War Veterans and their families guaranteed to disabled war veterans the following rights, depending on the category of their impairment:<sup>17</sup> Personal allowance, allowance for care and assistance, orthopedic surplus allowance, rights to health care, orthopedic and other aids, compensation for unemployment, spa treatment and rehabilitation, free and subsidized tickets in public transport, compensation for accommodation and food while staying outside the place of residence, right to a car.<sup>18</sup> Government had prepared new Law on Protection of Disabled War Veterans and Combatants: Draft was submitted to Parliament in 2006 but after the protests of associations of disabled war veterans Government withdrew the draft Law from the Parliamentary procedure. Even though DPOs insisted on an adoption of Law on Basic Compensatory Rights since 2005, no systematic work on draft begun and the subject matter may be prescribed for in number of separate laws, through amendments to laws on social protection, disability retirement and protection of war veterans.

Law on Health Insurance of Serbia prescribes that right to health care inter alia covers medical technical aids: Prothesis, orthosis and other aids for movement, sitting and standing, hearing aids, visual aids, speech aids and other equipment (article 34). Article 44 prescribes that mandatory insurance inter alia covers 100% of price for medical and technical aids necessary for treatment of injuries and diseases prescribed for in clause 1 of article 44. Criteria and procedure for realizing rights to aids are elaborated in Regulation on Medical and Technical Aids that are Funded from Mandatory Insurance in December 2005. The Regulation set more strict criteria for realizing the right to aids so persons with disabilities faced many obstacles when they attempted to realize their right guaranteed by Law on Health Insurance (see segment of the Report on health care).

### **2.9.2. Authorities at which political level provide social services? Local, regional and/ or national?**

At national as well as local level. In the current process of de-centralization of Serbia many social services are being transferred at the local level, but local authorities lack human and financial resources necessary for provision of optimal level of services in a standardized way throughout Serbia, maintaining uniform quality standards (see segment of this Report on living in community).

### **2.9.3. Are the public house programmes accessible to persons with disabilities?**

Yes, persons with disabilities have the right to apply for apartments funded from Funds of Social Solidarity run by various organs and institutions of Republic of Serbia and various municipalities. Some of the regulations of above- mentioned funds prescribe that disability is one of additional criteria for receiving the apartments. Still, this issue is not regulated in an uniform manner and the new Law on Social Housing does not provide for persons with disabilities as a socially vulnerable group that is entitled to receive social housing apartments.

<sup>17</sup> „Official Gazette of Federal Republic of Yugoslavia“ No. 24/ 98.

<sup>18</sup> „Osobe sa invaliditetom i okruženje“, Viktorija Cucić (editor), Belgrade, (2001), p. 185-186.

#### **2.9.4. Are retirement benefits and programs provided to persons with disabilities in a non-discriminatory way?**

Yes, with the exception of right of persons in disability retirement to work half-time after going to disability retirement, as Law on Disability Retirement Insurance prescribes for total lack of working capacity as condition for entering disability retirement.

#### **2.9.5. How does system of disability retirement function and who is qualified to receive a disability pension?**

Law on Disability Retirement Insurance regulates mandatory disability and pension insurance.<sup>19</sup> Law prescribes the right to disability pension in cases of disability (Article 18), and it defines disability as „total loss of working capacity due to changes in health caused by injuries at work, professional disease, injuries out of work or diseases that cannot be alleviated by treatment or medical rehabilitation (Article 21). Article 22 and 23 define injuries at work, article 24 prescribes for professional diseases. Insured person that completely lost working capacity due to injury at work or professional diseases is entitled to disability pension (Article 25). If the loss of working capacity was caused by disease or injury sustained outside work before the insured person reached age prescribed for old- age retirement, he/ she can go into disability retirement if he/ she had been insured and working for at least 5 years. If disability was caused by disease or injury at work that happened prior to insured person's 20<sup>th</sup> birthday, he/ she must have been insured and working for at least 1 year. If disability occurred before 25<sup>th</sup> birthday, the insured person must have been insured and working for at least 2 years, and if disability occurred prior to 30<sup>th</sup> birthday, person must've been insured and working for at least 3 years (Article 26).

Clause 3 of Article 31 of Law on Disability Retirement Insurance prescribes that a child is entitled to family pension and can enjoy it while incapacity for work exists, finishing with 20<sup>th</sup> birthday if child is attending high school, 23<sup>rd</sup> or 26<sup>th</sup> if the child is attending tertiary education (college, university). If insured person was supporting child incapable for work from the moment when incapacity originated until insured person's death, the child is entitled to receiving family pension even after the above- mentioned years (Clause 4 of Article 31). Law prescribes that „a disabled child has the right to family pension after he/ she ceased to work” (Clause 7 of Article 31).

#### **2.9.6. Is there a law that protects quality of social services?**

Law on Social Protection and Provision of Social Security to Citizens of Serbia prescribes for quality of social services in a generalized manner.

## **2.10 Culture and Sports**

#### **2.10.1. Is there legislation on accessibility of cultural buildings (museums, theatres, cinemas)?**

Law on Construction and Planning prescribes in Article 2 that cultural buildings are public objects of general interest. The 2006 amendments to Law on Construction and Planning (Article 14) prescribe that accessibility standards must be applied to cultural objects. The Law pertains to the new objects but in 2002 Ministry of Culture sent a circular letter to all institutions of culture, instructing them to apply accessibility standards to all reconstructions, if that is technically feasible.

Law on Prevention of Discrimination against Persons with Disabilities prohibits any

<sup>19</sup> „Official Gazette of Serbia”, No 34/03, 64/04, 84/04.

discrimination on grounds of disability in denying access to objects in public use, including objects of culture, sport and tourism (Article 13). Article 37 prescribes for obligation of local authorities to take measures in order to ensure equal participation of persons with disabilities in cultural and sporting life of the community. Ministry of Culture adopted Decision on Ensuring Conditions for Unrestricted Use of Programs of Cultural Institutions for Persons with Disabilities in 2007.

In bigger cities authorities begun adaptations of cultural buildings that used to be inaccessible and there are cases of good practice: Belgrade Philharmonics Hall, Frescoe Gallery of National Museum in Belgrade, Ethnographic Museum in Belgrade, Museum of Natural History in Belgrade, Municipal Church in Smederevo.

### **2.10.2. What about tourist, leisure and sports facilities and services?**

Amendments to Law on Construction and Planning prescribes that accessibility standards must be applied to sporting facilities as objects of general interest (Article 14). Regulation on Conditions for Planning and Designing Related to Unrestricted Movement of Children, Elderly, Handicapped and Disabled Persons prescribes accessibility standards for sporting and recreational facilities in detail.

Provisions of Articles 13 and 37 of Law on Prevention of Discrimination against Persons with Disabilities have been analyzed above.

Provisions of the above- mentioned laws and regulations are not implemented in a systematic and consistent manner, however there are examples of good practice: Newly built Belgrade Sports Arena is accessible, a booth and bathroom for wheelchair users have been built in the course of reconstruction of football stadium of FC Red Star. On the other hand, the recently reconstructed swimming pool Tasmajdan is not accessible, just as most older sporting and recreational facilities.

The above- mentioned Article 13 of Law on Prevention of Discrimination against Persons with Disabilities prohibits discrimination on basis of disability in provision of all professional services designed for the general public, including tourist services. Regulation on categories of hotels provide for use of international standards of services for disabled guests and provisions of Law on Construction and Planning and Regulation on accessibility standards shall apply to all newly built tourist facilities.

Nevertheless, many tourist objects, services are not accessible to persons with disabilities at the moment.

### **2.10.3. Is there support for disability-specific cultural and sporting activities?**

Yes but insufficient, especially in the field of sporting activities.

Provisions of Article 37 of Law on Prevention of Discrimination against Persons with Disabilities have already been analyzed above.

Ministry of Culture funds projects of cultural activities of DPOs.

Serbia's athletes had remarkable results on European, world sporting events and championships and Paralympic games, even though scholarships and pension for disabled athletes were equalized with those for non- disabled athletes only in 2006. Situation in Serbia's Paralympic Committee is currently rather chaotic.

#### **2.10.4. Are persons with disabilities depicted in media and if yes, how are they depicted?**

Yes.

Over the past several years electronic media and press cover persons with disabilities more extensively. Previously dominant sensationalist journalism rooted in and perpetuating medical and charitable approaches to disability is slowly replaced by media coverage that stresses rights and potentials of persons with disabilities. This shift is caused by education activities DPOs conducted with journalists and editors. However, in spite of efforts to educate journalists, many media still depict persons with disabilities in a manner that perpetuates medical and charitable approaches to disability.

National TV of Serbia runs a weekly show on persons with disabilities edited by a journalist who is a person with disability himself. Number of local TV stations have bi-weekly or monthly broadcasts on persons with disabilities that are run by journalists who are persons with disabilities. Number of local radio stations have weekly shows on persons with disabilities and one radio station with national frequency has an all night broadcast run by 2 journalists with disabilities. Most daily newspapers have journalists specialized in disability affairs.

### **2.11 Accessibility to transport, buildings (new), information (web sites, etc..)**

#### **2.11.1. Does your country have accessibility legislation? If yes, please explain having the following questions in mind:**

- Are there national accessibility standards that define when a building, premise is accessible?
- Is new infrastructure built respecting accessibility standards? (Buildings, transport system, telecommunication, shopping centres)
- Is there a difference between public and private facilities? What about buildings of public authorities (town halls, Ministries)
- Are there plans to eliminate barriers in the current built environment? Is there a timetable; is there an annual budget allocation for this?

Yes. Legislation covers accessibility of physical environment and public information. Legislation on public transport does not cover accessibility issues.

Provisions of Article 14 of amendments to Law on Construction and Planning, prescribing for mandatory application of accessibility standards on new public objects of general interest have already been analyzed above. Amendments to the above-mentioned Law prescribe for fines for investors and persons responsible for not ensuring access to public object of general interest ranging from 120 to 600 euros (Article 41).

Article 2 of Law on Construction and Planning prescribes that public objects of general interest to which technical standards are applied include educational, health care, social protection, cultural and sporting facilities, objects for protection of environment and for protection from natural disasters.

Regulation on Conditions for Planning and Designing of Objects Pertaining to Unrestricted Movement of Children, Elderly, Handicapped and Disabled Persons prescribes that standards apply to the following objects for public use: Hospitals, primary health care institutions, rehabilitation centers, centers for elderly, schools, sporting and recreational facilities, banks, post offices, business premises, transport terminals, objects of public national and local authorities and other objects (Article 2). Standards prescribed for by Regulation also apply to housing objects, public transport and pedestrian areas (Article 1).

Provisions of the above- mentioned laws and regulation should apply to all new objects in public use but that does not always happen in practice.

Law on Prevention of Discrimination against Persons with Disabilities prescribes for prohibition of discrimination on grounds of disability in access to objects in public use (Articles 13 to 16). Article 33 prescribes that local authorities should take measures in order to make physical environment, buildings, public areas and transport accessible to persons with disabilities.

Nevertheless, many public objects and public transport in most cities of Serbia aren't accessible.

Up until recently efforts for removal of architectural barriers were not systematic and more or less relied on limited individual campaigns in particular cities. Campaigns were primarily initiated by DPO, with financial support of foreign donors and, occasionally, local authorities. In 2006 National Investment Plan of Serbia prescribed for adaptation of all social welfare centers and primary health care institutions, adaptation of number of cultural buildings, buildings of National Employment Service. Local authorities in number of municipalities in Serbia provided for funding in municipal budgets for adaptation of number of previously inaccessible public buildings, in accordance with provisions of Article 33 of Law on Prevention of Discrimination against Persons with Disabilities.

Principles of Universal design/design for all still have been more widely accepted in Serbia in spite of efforts various DPO put into promoting them. However, Universal design/design for all became part of curriculum at Faculty of Technical Sciences of Novi Sad University and faculties of architecture and engineering of Belgrade University.

Besides the above- mentioned provisions of Article 33 of Law on Prevention of Discrimination against Persons with Disabilities and the prohibition of discrimination on grounds of disability in public transport (Articles 27 and 29), laws on public transport contain no provisions that would prescribe for accessibility.

**2.11.2. Can a person with a disability be denied his/her entry in a public place (restaurant, hotel)? If yes, can you give examples and the reasons why a person was denied the entry, e.g. the person uses a guide dog, the person was on her/his own.**

Law on Prevention of Discrimination against Persons with Disabilities prohibits discrimination on grounds of disability by denying access to persons with disabilities to services open to the general public (Articles 13 to 16). The above- mentioned provisions were written in order to prevent re- occurrence of former cases of denial of access to restaurants and cafes to persons with disabilities, and refusal of hotel lodgings to blind person using a guide dog. Law on Protection of Consumers also provides basis for protection of customers who are persons with disabilities.

**2.11.3. Are public web sites accessible to persons with disabilities? Do they comply with the WAI guidelines?**

Article 5 of Law on Public Information in a generalized way guarantees access to information to persons with disabilities.

Blind persons can use some of public authorities' web sites, as well as other public web sites, by using „Enreader“ program, of texts are available in Word format that „Enreader“ can transform into accessible format. Nevertheless, above- mentioned web sites are not in accordance with WAI guidelines.



**2.11.4. Is training provided to persons with disabilities on mobility skills? If yes, who provides this training and who funds it?**

Blind persons attend basic mobility training in special schools but that training is rudimentary. The fact that there aren't enough professionals that would train them presents considerable difficulty. There are plans to train appropriate professionals who would in turn train blind persons at faculties for special pedagogy in neighboring states.

**2.11.5. Are principles of media and TV without frontiers used in Serbia in practice (subtitles, audio description, sign language interpretation etc.)...?**

Yes but not sufficiently (for additional details see segment of the Report on access to information, question 2.5.1.)

**3. TRANSVERSAL ISSUES: WOMEN, MINORITIES**

When preparing the Report, please provide information on specific measures, if any, on situation of women with disabilities, children with disabilities or persons with disabilities that belong to minority groups (Roma, linguistic minorities, etc.)

**3.1. Are women with disabilities included in national measures for elimination of violence against women?**

Yes.

National Strategy on Elimination of Violence against Women contains appropriate provisions on women and girls with disabilities.

**3.2. Are women with disabilities included in national programs for promotion of rights of women?**

Yes, but insufficiently.

Since 1996 DPO put lot of effort into promotion of status, rights and potentials of women and girls with disabilities, as well as their protection against violence. Several DPOs developed cooperation with women's rights groups and organizations, pointing out double discrimination women with disabilities face. Women with disabilities became involved in the work of SOS telephone lines, support groups. An organization whose specific aim is to protect women and children with disabilities, *Out of Circle*, has been formed. Through the network of non-governmental organizations of women, support is provided to women with disability. Activities for self-empowerment of women and girls with disabilities are developed and training for authorities also begun.

**3.3. Are the children with disabilities included in national educational strategies or national strategies for protection of children?**

Institute for Education prepares Strategy of education of children with developmental difficulties (i.e. children with disabilities).

**3.4. Are national minorities with disabilities included in programs for promoting rights of minorities?**

No.

Solving the status of hundred of thousand of Serb refugees from Bosnia and Herzegovina and Croatia and internally displaced Serbs and other non- Albanians from Kosovo and Metohia. There are many persons with disabilities among them and their status is precarious. In spite of effort of Serbian authorities and international agencies, the above- mentioned persons are in difficult situation.

### **III RECOMMENDATIONS**

#### **1.1. Definition, statistics**

##### ***Definitions***

The definitions in antidiscrimination legislation have to be broad and based on social model of approach to disability, in order to ensure protection from possible discrimination for each person with disability, regardless of degree of that person's impairment.

Definitions in legislation pertaining to compensatory rights shall be focused on the forms of support that should be provided to persons with particular forms of impairments. One should ensure consistent use of single sort of definition in various legislation that has the common general aims.

##### ***Statistics***

One has to take into consideration disability related data in the course of obtaining general statistical data. One should use more than one data base but various organs running various data bases must exchange information, their work has to be co-ordinated and data bases have to be harmonised.

#### **1.2 Anti discrimination legislation, public procurement and other overarching issues**

##### ***Anti discrimination legislation***

In the course of preparation of the National Disability Report DPO's in Serbia proposed initiation of amendments to the Law on Prevention of Discrimination against Persons with Disabilities in order to shift the burden of proof to defendants in civic proceedings, in accordance with the EU practice. DPOs also proposed to amend the Law, enabling DPO to initiate court proceedings in cases of discrimination on grounds of disability.

Parallel to implementation of Law on Prevention of Discrimination against Persons with Disabilities, efforts should be put into further awareness- raising, and disability movement should insist on election of deputy Ombudsperson who will be in charge of protecting the rights of persons with disabilities. State should amend all legislation that contains provisions that can be interpreted as discriminatory. Besides combating discrimination, efforts should be put into equalisation of opportunities for persons with disabilities through affirmative action and compensatory rights.

##### ***Public Procurement***

In the course of preparation of the National Disability Report in Serbia DPO's concluded that one should initiate amendments of the existing Law on Public Procurement, harmonising it with the EU directive on public procurement. The amendments to Law on Public Procurement should



ensure the application of accessibility standards and prohibition of discrimination of persons with disabilities pertaining to access to objects, infrastructure, goods and services funded from public funds.

### **Strategic Documents**

In the course of preparation of the National Disability Report in Serbia DPO's concluded that Team for Implementation of Poverty Reduction Strategy should deal with study of specific level of poverty for persons with disabilities.

### **Foreign Aid and Donations**

All foreign donors have to systematically and consistently respect the principle of non-discrimination and ensure equal opportunities for persons with disabilities in all projects they fund in Serbia. On one hand, all general projects must guarantee access for persons with disabilities to goods, services, objects and infrastructure designed for general public that are funded by international donors. On other hand, international donors should fund specific projects aimed exclusively or predominantly at persons with disabilities.

### **1.3 Consultation and involvement with DPOs (funding)**

In the course of preparation of the National Disability Report in Serbia DPO's agreed that Council for Enhancement of Status of Persons with Disabilities should become a permanent body in charge of monitoring implementation of National Disability Strategy. The Council should have a clearly defined mandate and competencies, regular funding from the budget, permanent professional secretary and technical staff whose sole duty would be to monitor and promote implementation of the Strategy and deal with disability affairs.

In the course of preparation of the National Disability Report in Serbia DPO's agreed that state should support Umbrella organisation of Serbia's DPO financially and logistically, which cannot prevent continued support to national DPO's that are already supported in a transparent manner and with clearly defined criteria.

Local authorities should support work of local DPO with unified and balanced criteria and adequate sources for funding.

## **2. Specific areas**

### **2.1 Education**

It is necessary to take measures in order to ensure that every child with disability realize his/ her right to education, which is recognized by law. Since the establishment of the inclusive education system, prescribed by the Convention on the Rights of Persons with Disabilities (CRPD), is a long-term process, it is necessary to adopt the adequate strategy as soon as possible. Such strategy should be adopted in the form of independent document or within general development strategies and the reform of the system of education. Inclusive system refers to pre-school, elementary and primary education where children and youngsters with disabilities should be provided with the necessary system support in order to attend mainstream education institutions.

It is necessary to adopt the Decision on the work of the commissions for instructing and monitoring of children with disabilities in order to begin the reform of the system of the evaluation of children and youngsters with disabilities. The Decision shall also establish the

foundations of the system that will orient those children and youngsters towards the integrated rather than the segregated society. Orientation of children with disabilities should begin earlier in their life, rather than at the age of 6, when they should start going to elementary school. Due to the fact that the best results in the work with children with disabilities are achieved until the age of 6, it is necessary to ensure that all children with disabilities should be included in the system of pre-school education. Law on Pre-school Education should be adopted.

Persons with disabilities should be provided with the access to education during their entire life, including the education of adults who were deprived of this possibility in their childhood due to discrimination and inadequate education system.

In accordance with Convention on Rights of Persons with Disabilities, competent authorities have to amend the laws on the basic and secondary education. They have to prescribe the obligation of a state and local authorities to provide the conditions for children and youngsters with disabilities for equal attendance of mainstream schools, with reasonable accommodations for those pupils who so require.

It is necessary to gather systematically and continually the data on the number of children and youngsters with disabilities attending mainstream schools. Furthermore, authorities have to gather data on the type of support necessary in order for the children and youngsters with disabilities to attend those schools under the equal conditions with their peers without disabilities.

The expediency of the present special education system should be evaluated. It is necessary to change regulations on elementary and secondary education and prescribe the obligation of education institutions' founder to finance the creation of the conditions for equalization of possibilities for pupils with disabilities within the mainstream system of education. Special schools should become resource centers, which will assist with individualized reasonable accommodations for students with disabilities who attend mainstream elementary and secondary schools.

Within the pre-school and elementary education, taking care of children during a whole day should be provided in order for parents to be able to go to work.

It is necessary to make the plan of measures and activities in order for consistent implementation of Law on Higher Education and Law on Prevention of Discrimination against Persons with Disabilities in practice.

It is necessary to make the plan of measures and activities in order to make general vocational training centers entirely accessible to persons with disabilities. Authorities have to create the conditions for the informal education for performing certain types of work, which many persons with disabilities have acquired, to become the foundation for their employment through the adequate validation of diploma.

It is necessary to revise the nomenclature of jobs for people with disabilities, in compliance with the technology development and the needs of labor market.

Curriculum for blind and visually impaired children has to be updated. It is necessary to initiate training of professionals of this profile at the Faculty for Special Pedagogy and Rehabilitation. It is necessary to initiate the creation of school curricula for working with deaf blind children and youngsters.

It is necessary to update the programs for blind, deaf and blind deaf children in order for them to

acquire the knowledge, which would enable them to be competitive at the labor market and to have equal opportunities for continuing university education upon finishing their secondary schools.

The number of teachers qualified to teach the Sign language and/or Braille should be increased through training at the Faculty for Special Pedagogy and Rehabilitation, the Faculty of Pedagogy and, if needed, through the licensed training courses organized by the qualified organizations of persons with disabilities.

It is necessary to undertake the activities aimed at awareness- raising on inclusive education among experts themselves but among the widest public as well.

## **2.2 Employment**

The provision of the Labour Law about the protection from the dismissal in the cases of technological surplus of employees should be interpreted in the following way: all persons with disabilities enjoy the protection from dismissal.

Provisions of Article 101 of Labour Law, which prescribes the employer's obligation to offer the labor disabled persons retraining and training for other adequate job, should be applied to all persons with disability while employed, regardless of its cause (work injury, professional illness, injury outside of work, diseases, traumas).

In order to consistently implement the provisions of Labor Law, the following tasks should be undertaken: raising awareness on anti-discrimination regulations regulating the area of employment, training of the organs of the administration of justice. The empowerment of persons with disabilities and their organizations to apply for court protection in cases of the violation of one's legal rights and thus use the necessary legal means is equally necessary.

It is necessary to adopt the Law on Professional Rehabilitation and Employment of Persons with Disabilities as soon as possible, as well as to develop the social dialogue and encourage employers to employ persons with disabilities.

In the context of employment and realization of the right to work, in addition to the work on the open labor market, the attention must also be paid to working engagement of persons with disabilities in sheltered workshops and day centers which do not have to be cost-effective automatically. The states and local authorities should support these models of working engagement of persons with disabilities who cannot work on the open labor market. It is necessary to apply the regulations on trade union and other rights from employment to sheltered workshops.

The decisions on partial or full restriction of legal capacity should be modified in order not to exclude automatically the realization of the right to work and work engagement of the protégé in some form.

In cooperation with the National Employment Service and Chamber of Commerce, the access to training for the empowerment of management and enterprising abilities and skills should be provided for persons with disabilities.

Since the regulations of the Law on Social Protection and Provision of Social Protection of Citizens of Serbia, the Law on Disability and Retirement Insurance, Labor Law are not harmonized, they should be harmonized. They should promote the principle that persons with disabilities should realize their right to the required support services and compensatory rights in

accordance with level of impairments, regardless of cause of impairments. Enjoyment of the above- mentioned rights can not automatically represent an obstacle for the realization of the universally recognized right to work.

During 2007 it is necessary to realize the measures prescribed by the National Strategy for Enhancement of Status of Persons with Disabilities in order for all branches of the National Employment Service to be accessible to persons with disabilities.

### **2.3 Access to health and rehabilitation**

It is necessary to conduct consistently the planned reconstruction of primary institutions of health care and use the means of the National Investment Plan of Serbia in order for all health centers to be made accessible. The systematical and continuous investments should be continued in order for all health institutions to be made accessible gradually.

When adopting the Law on the Serbian Sign Language, the possibilities of using the law in the context of the realization of the right to health care should be prescribed too.

It is necessary to organize training for medical personnel on the rights of persons with disabilities and the ways of meeting these persons' health needs. Having in mind the difficulties in the realization of the right to dental care, a special attention should be paid to training of the dentistry staff and students of the Faculty of Dentistry when providing the services of dental protection to persons with disabilities.

It is necessary to work on forming multidisciplinary teams at health institutions, which will provide the psychosocial support to the parents of children with disabilities and direct them to the adequate organizations of persons with disabilities. Education of teams in development counseling centers for persons with disabilities and their families should also be encouraged. The house call health care service should be made accessible to persons with disabilities too.

It is necessary to take certain measures as soon as possible in order to make as many sexual and reproductive health institutions as possible entirely accessible. Adequate training of health personnel and raising awareness of the rights of men and women to health, marriage, family, children and related aspects of these rights is also needed. A special attention should be paid to health protection of women with disabilities and development of the network of sexual and reproductive health counseling centers for these women.

It is necessary to invest systematically and continuously in further development of rehabilitation centers. Authorities have to amend Articles 44 and 50 of Law on Health Insurance, prescribing that health insurance should cover 100 percent of costs for all services of rehabilitation in institutions. Amendments should provide the full amount of health care without participation for all categories of persons with disabilities regardless of level or cause of their impairments.

The authorities have to amend the Regulation on Medical and Technical Aids that are Funded from Mandatory Insurance in order to enable persons with disabilities to realize in practice efficiently their right to quality aids guaranteed by Law on Health Insurance. In perspective one could consider adoption of a new Regulation.

It is necessary to apply the regulations of the Law on Prevention of Discrimination of Persons with Disabilities in practice. Authorities have to amend Article 253 of the Criminal Code in order to sanction as a criminal act every denial of health protection to a person with disability, regardless of the possible consequences. It is necessary to organize training of medical personnel on the rights of persons with disabilities and the means of meeting the medical needs of these persons.

## **2.4 Community living (institutionalization, support to families, personal assistance)**

It is necessary to change the provisions of the Law on Social Protection and Provision of Social Security To Citizens of Serbia and prescribe specific services that will enable persons with disabilities to live in the community housing with support, day centers, personal assistance services and other similar support services.

In order to ensure continuous implementation of Article 32 of the Law on Prevention of Discrimination against Persons with Disabilities, it is necessary to adopt adequate by-laws and amendments of Law on Social Protection and Provision of Social Security to Citizens of Serbia and Law on Local Authorities. The amendments should prescribe the criteria for realisation of rights, quality standards of services, mechanisms of control of the quality of services, with the continuous respect of the principle of beneficiaries' control and regular sources of financing these support services at both the republic and local level. The issue of establishing and functioning of the support services for persons with disabilities at local level should be included in all strategic and program documents of the development of the system of social protection and decentralisation in Serbia.

Using the experiences from DPO pilot projects, by amending legislation on social protection and local authorities, it is necessary to finalize criteria, standards, procedures in order for personal assistance service to become one of the options in the system of social protection of Serbia in the years to come.

Law on Social Protection and Provision of Social Security to Citizens of Serbia and Law on Financial Support to Family with Children have to be amended in order to provide adequate types of support to the parents of children with disabilities.

It is necessary to work on the promotion of the concept that staying in family until the age of which children without disabilities also stay in their families is in the best interest of the child.

It is necessary to amend Law on Legacies and Foundations and Law on Social Protection and Provision of Social Security to Citizens of Serbia so that the parents of persons with disabilities deprived of their work abilities should be enabled to leave their property as legacy. The organizations of persons with disabilities would have control over the above- mentioned legacies and foundations. The purpose of those legacies and foundations would be the work of day centers and small house communities for housing with support. The residents would be the children with intellectual disabilities of the persons who left their property as legacy.

## **2.5 Access to information**

It is necessary to further develop and standardize the Serbian sign language and adopt the Law on the Serbian Sign Language. Deaf persons should be provided with the access to information broadcasted in the electronic media via the adequate application of modern technology caption and engaging the interpreters to the Serbian sign language by TV stations.

Deaf persons should be provided with a possibility of contacting emergency services (police, ambulance, fire department) through call centers by sms and in greater regional centers of Serbia one should work on establishing the service centers whose services would make easier communication to deaf and partially deaf persons.

It is necessary to provide the possibility of learning the Serbian sign language as an optional subject in mainstream schools from the fifth grade of elementary school.

It is necessary to implement continuously the regulations of Articles 11, 34 and 35 of the Law on Prevention of Discrimination against Persons with Disabilities and Article 5 of the Law on public information and provide blind persons with getting official documents in Braille or any other accessible format.

It is necessary to take measures within the education system in order for sufficient and necessary number of the qualified interpreters for sign language to be educated in cooperation with local organizations and the Union of Deaf Persons of Serbia.

As part of the plans for the adoption of the new Law on Social Services and the Law on the Serbian Sign Language, the right of deaf persons to financial coverage of certain number of hours monthly for engaging a sign language interpreter should be prescribed.

It is necessary to amend the laws on administrative, civic, criminal and other proceedings that would prescribe the obligation of the authorities' institutions to pay an interpreter for the Serbian sign language engaged in the official proceedings from the budget.

## **2.6 Protection against torture, violence and abuse**

It is necessary to educate health care professionals to apply other appropriate internationally recognized methods of treatments for behavior disorders, besides the medication.

Law on Mental Health has to be adopted.

A body that would prevent possible abuse in the field of medical treatments has to be set up.

Criminal Code has to be amended in order to prescribe more severe prison sentences for those who commit criminal offences prohibited by Articles 193 and 194 in cases when crimes are committed against women and children with disabilities.

One should initiate amendments of Criminal Code in order to prescribe for more strict sanctions for perpetrators of rape whose victims were persons with disabilities. DPOs should organize education of judiciary organs in order to ensure that cases of rape whose victims are persons with disabilities are not automatically considered as milder criminal offence of "having sex with an infirm individual".

## **2.7 Legal capacity, access to justice**

### ***Legal Capacity***

DPOs should educate officials in organs that make decisions on extension of parental care in order to prevent automatic extension of that right over young persons with disabilities and possible abuse of provisions of Article 85 of Family Code in practice.

As legal capacity of persons with disabilities is usually completely restricted in practice, one should promote the option of partial restriction of legal capacity, provided for in the Family Code.

Competent authorities should adopt amendments to Law on Social Protection and Provision of Social Security to Citizens of Serbia, and the new Law on Social Services. They should also adopt the necessary by-laws that would prescribe for social support services for persons whose legal capacity is partially restricted, in order to enable them to realize limited legal capacity more easily.

Competent authorities should adopt the by-laws that would prescribe for in greater detail criteria for persons that can be appointed as guardians, for legal safeguards necessary to prevent conflict of interest and abuse of guardianship. Those by-laws should, inter alia, prescribe for



independent organs that would monitor this area and intervene in cases of potential conflict of interests and possibility of regular reviews of decision on guardianship.

### **Access to Justice**

Competent authorities have to amend laws on civic, criminal and administrative procedure and adopt Law on Serbian Sign Language in order to enable persons with sensory disabilities access to justice, including the right to hire a sign language interpreter that would be paid by judiciary and delivery of documents in accessible formats free of charge.

Law on Prevention of Discrimination against Persons with Disabilities and legislation on accessibility must be implemented strictly in order to ensure physical accessibility of the buildings where judiciary is located.

### **2.8 Electoral rights and participation in political life**

Competent authorities have to continue putting effort into making election process fully accessible for persons with disabilities.

Competent authorities should amend electoral legislation and, using an analogy with persons that serve military service and vote at military camps, outside of their places of regular residence, provide the same voting procedure for persons with disabilities that reside in institutions.

One should amend the draft Law on Non-governmental Organizations and prescribe that DPOs are NGOs of public interest. The Law should furthermore guarantee that DPO maintain and continue to use property and real estates they acquired before new Law entered in force.

### **2.9 Social protection**

Competent authorities should amend legislation in the field of social protection in order to provide all persons with particular degree of impairment, regardless of its' origin, with an allowance aimed at covering the additional costs of disability. The allowance would not be dependent on income a person makes, nor it would constitute an obstacle to that person's labor engagement and possible enjoyment of other compensatory rights. The additional rights of disabled war veterans, disabled civilian survivors of wars and persons that got disabled at work should be prescribed for by particular legislation.

System of assessment of persons with disabilities has to be reformed and appropriate by-laws have to be adopted in order to shift the focus of work of authorities and organs in charge of assessment from assessment of lack of capacity to assessment of needs, resulting in provision of necessary social services to users.

Disability movement should insist on proper interpretation of Law on Social Protection and Provision of Social Security to Citizens of Serbia: Legal condition for receiving allowance for other person's assistance and care is lack of capability to perform independently basic daily activities, and not the lack of capability to work.

Serbia's disability movement should insist on interpretation of the Law that won't place persons with intellectual disability in an unequal position.

The authorities should adopt Law on Protection of Disabled War Veterans that would be drafted in cooperation with DPOs.

Amendments to Law on Social Protection and Provision of Social Security of Citizens, Law on Local Autonomy, as well as adoption of new Law on Social Services and Law on Social Allowances, should provide legal framework for rational, self-sustainable decentralized network of social services and allowance. Those amendments should guarantee the same standards, criteria and quality of services in all municipalities of Serbia, with additional financial support from national level when needed.

Law on Social Housing should be amended as to explicitly prescribe that persons with disabilities are one of the socially vulnerable groups that are entitled to receive subsidized social housing. At least 10 percent of apartments funded from social housing funds have to be built in accordance with accessibility standards. In the context of social housing state should also promote small housing units and supported living in community for persons with intellectual disabilities and autism.

At local level, one should harmonize criteria for applying for apartments that are funded from Funds of Social Solidarity and provide for disability as one of criteria for receiving publicly subsidized housing.

Competent authorities should amend the Law on Disability Retirement Insurance in order to enable persons that went into disability retirement pensioners to work part-time, like all other. One should also consider possibility of amending Labor Law, or incorporating provisions that would enable persons with disabilities to work half-time (within the context of reasonable accommodations) into Law on Professional Rehabilitation and Employment of Persons with Disabilities.

Authorities have to amend this Law in order to provide for more precise guarantees for quality of social services. The new Law on Social Services has to prescribe for guarantee of quality of social services and unified standard of those services, with promotion of principle of user control of social services.

## **2.10 Culture and Sports**

### ***Culture and Sports***

The efforts for adaptation of the existing non-accessible cultural buildings have to be systematic and continuous.

Authorities should prepare a plan of adaptation of the existing inaccessible cultural and sporting facilities and must ensure strict implementation of provisions on accessibility in each case of reconstruction or building of new objects.

In cooperation with competent organs and tourist associations, disability movement should initiate preparation of plan of adaptation of existing tourist programs and objects and amendments to regulations on provision of tourist services in order to ensure accessibility of tourist services. Regulation on Categorization of Tourist Objects must be amended in order to prescribe for guaranteeing accessibility of services for persons with disabilities.

The local authorities and expert associations should participate more systematically and continuously in implementation of provisions of Article 37 of Law on Prevention of Discrimination against Persons with Disabilities. Competent authorities should adopt the necessary by-laws and regulations.

Authorities must systematically and continuously support athletes with disabilities and ensure

equal opportunities for participation in sporting life. Furthermore the authorities must consistently implement Law on Prevention of Discrimination against Persons with Disabilities and take measures to normalize the work of Paralympic Committee.

### **Media**

Disability movement has to systematically and continuously work on education of journalists and promotion of social model of approach to disability, rights and potentials of persons with disabilities in media.

#### **2.11 Accessibility to transport, buildings (new), information (web sites, etc.)**

Laws and regulations on construction and urban planning that prescribe for accessibility standard and Law on Prevention of Discrimination against Persons with Disabilities have to be implemented strictly, sanctions must be applied against those that violate laws. Disability movement must cooperate with authorities, expert organizations and universities in awareness-raising on accessibility.

The efforts for removal of existing architectural barriers have to be continued in a more systematic and continuous manner.

Disability movement, expert associations, universities and competent authorities must continue systematic efforts for promotion of principles of universal design/design for all.

Competent authorities must amend laws on scientific research and innovative activities in order to make use of principles of universal design/ design for all mandatory in scientific research and related innovative activities.

Competent authorities have to amend legislation prescribing for public transport and provide for mandatory accessibility of vehicles and transport infrastructure for persons with disabilities.

Provisions of Articles 13 to 16 of Law on Prevention of Discrimination against Persons with Disabilities, and Law on Protection of Consumers must be implemented consistently in practice, including by means of court litigations and fining of persons that violated the laws.

Authorities have to prepare a strategy for adapting web sites in accordance with WAI guidelines and adopt by- laws that would provide for authority's and professional providers of web presentations' obligation to adapt their web sites in accordance with WAI guidelines in a way that enable blind persons to use those sites without any restrictions, in order to ensure implementation of article 5 of Law on Public Information in practice.

DPOs and competent educational authorities have to systematically and continuously cooperate on strengthening of human resources in order to provide persons with disabilities mobility training free of charge.

### **3. Transversal issues: women, minorities**

#### **Women**

The provisions of National Strategy on Elimination of Violence against Women have to be implemented consistently in practice.

Disability movement has to put effort into awareness- raising and training for women with disabilities as well as staff of competent state and local authorities in charge of realization of rights from family and marital relations, especially right to parenthood. Authorities have to organize support services that would ensure equal opportunities for women with disabilities and equal enjoyment of rights that Family Law and laws on social protection guarantee to all women.

Disability movement, especially women with disabilities NGO, have to continue self-empowerment of women with disabilities, to provide necessary training to staff of judiciary and administrative organs in charge of combating violence. Effort has to be put into the strengthening of network of NGO for support to victims of violence.

### **Children**

Strategy of education of children with developmental difficulties has to be based on principles of inclusion. For more details see segment 2.1 of this Report.

### ***National minorities, refugees, internally displaced persons***

Authorities must incorporate persons with disabilities in the national programs for promotion of rights of minorities. DPOs and councils and other authorities and organizations of national minorities must develop cooperation.

Measures for improvement of status of persons with disabilities must be incorporated into all strategic documents on refugees and internally displaced persons.