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## **EUROPEAN SOCIAL CHARTER**

9<sup>th</sup> National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF SERBIA**

Article 1, 9 ,10 ,15 ,18, 20, 24 and 25

for the period 01/01/2015- 31/12/2018

Report registered by the Secretariat on

27 April 2020

**CYCLE 2020**

## **APPENDIX**

*Under the European Social Charter member states are committed to ensuring the effective exercise of the right to work and the objective of high and stable employment (full employment). However, changes — and potential threats — resulting from globalisation and rapid technological developments such as automation require robust and comprehensive strategies and responses, in particular education and training. In order for the labour force to be responsive to evolving needs, the policy measures adopted have to be adequately resourced and implemented vigorously and proactively. The measures must rest firmly on guarantees of basic labour rights such as non-discrimination in access to employment, equal pay for women and men and dismissal protection as well as of the rights of persons who are or may be vulnerable to particular disadvantage in the labour market, such as persons with disabilities and migrants and refugees.*

*In pursuance of the above States Parties are invited to provide the following information pertaining to the reference period 2015-2018:*

### **Article 1§1\***

Please provide details of labour market policy measures specifically designed to support specific groups or communities, such as: young people who have not yet entered the labour market, persons in geographical areas and communities with distinct levels of underemployment (quality) or unemployment (quantity) or experiencing severe or chronic unemployment as well as migrants and refugees;

Please include statistical information on the overall impact of employment policy during the reference period: economic growth indicators, unemployment rates broken down by gender, age and duration, public expenditure on passive and active labour market measures as a share of GDP, number of participants in active measures (training), activation rate (participants/unemployed ratio).

**Under the Employment and Unemployment Insurance Law, harder-to-employ persons are those who due to their health condition, insufficient or inadequate education, social and demographic characteristics, regional or occupational-related mismatch between supply and demand at labour market or due to other subjective circumstances have difficulties in finding job. Particularly vulnerable are the persons who simultaneously face multiple factors of vulnerability/difficult position to find employment. More equitable position of such persons at labour market is achieved by specific active employment policy measures (AEPMs).**

**All the unemployed persons registered with the public employment service have access to PES services and AEPMs, the implementation of which is prioritized for the harder-to-employ groups as provided for under the annual National Employment Action Plan (NEAP).**

### **Share of the harder-to-employ in the total registered unemployment**

| <b>The Categories of Unemployed Persons</b>                     |   | <b>2016</b>    | <b>2017</b>    | <b>2018</b>    |
|---|---|----------------|----------------|----------------|
| Unemployed persons  | Number of persons, annual average                     | <b>713.153</b> | <b>650.573</b> | <b>583.099</b> |
| Persons with disability   | Number of persons                                     | 15.660         | 14.906         | 14.429         |
|   | <i>Share in the total number of the unemployed, %</i> | 2.2            | 2.3            | 2.5            |
| Roma  | Number of persons                                     | 25.126         | 16.237         | 26.099         |
|   | <i>Share in the total number of the unemployed, %</i> | 3.5            | 4.1            | 4.5            |
| Redundant workers   | Number of persons                                     | 56.398         | 49.474         | 43.854         |
|   | <i>Share in the total number of the unemployed, %</i> | 7.9            | 7.6            | 7.5            |
| Cash social assistance recipients                               | Number of persons                                     | 66.999         | 67.692         | 65.596         |
|   | <i>Share in the total number of the unemployed, %</i> | 9.4            | 10.4           | 11.2           |
| Both parents unemployed   | Number of persons                                     | 61.567         | 48.830         | 36.517         |
|   | <i>Share in the total number of the unemployed, %</i> | 8.6            | 7.5            | 6.3            |
| Former perpetrators of criminal offence                         | Number of persons                                     | 18.346         | 13.510         | 11.728         |
|   | <i>Share in the total number of the unemployed, %</i> | 2.6            | 2,1            | 2.0            |
| Victims of domestic violence                                    | Number of persons                                     | 682            | 672            | 647            |
|   | <i>Share in the total number of the unemployed, %</i> | 0.1            | 0.1            | 0.1            |
| Victims of human trafficking                                    | Number of persons                                     | 95             | 149            | 163            |
|   | <i>Share in the total number of the unemployed, %</i> | 0.0004         | 0.0005         | 0.0005         |
| Returnees from abroad on the basis of the Readmission Agreement | Number of persons                                     | 90             | 76             | 66             |
|   | <i>Share in the total number of the unemployed, %</i> | 0.01           | 0.01           | 0.01           |
| Refugees  | Number of persons                                     | 971            | 761            | 611            |
|   | <i>Share in the total number of the unemployed, %</i> | 0.1            | 0.1            | 0.1            |
|   | Number of persons                                     | 6.817          | 6.234          | 5.555          |

|   |   |      |      |      |
|---|---|------|------|------|
| Internally displaced persons (IRLs)   | <i>Share in the total number of the unemployed, %</i> | 1.0  | 1.0  | 1.0  |
| Young persons living in residential care, foster care and guardian families | Number of persons                                     | 173  | 165  | 146  |
|   | <i>Share in the total number of the unemployed, %</i> | 0.02 | 0.03 | 0.03 |

Given that the situation of **the Roma persons at labour market is particularly made challenging owing to multiple factors**, this nationality is set into a separate category of the harder-to-employ in terms of their participation in ALPMs.

In addition to the priority position that the Roma as harder-to-employ have when considering their coverage by ALPMs, specific programmes and measures are implemented which are targeted to the enhancement of employability, but also implemented with view to encourage employers to hire the Roma

**Since 2010**, aiming at the promotion of employability of the Roma, the public employment service has, in addition to regular invitation to public calls, **been inviting to the participation of specific public calls** to award subsidies for self-employment for the persons of the Roma nationality who are jobless and seeking employment. Roma are included in this programme also on the basis of regularly invited participation to public calls, resulting in the higher number of the persons of the Roma nationality who have managed to benefit from the self-employment subsidy at annual level.

**In the period 2015 – 2018, 20.200 persons of the Roma nationality participated in the AEPMs.** The largest number participated in the programme of active job-search, functional primary adult education – acquisition of primary education under law, with the access to the acquisition of competences for the performance of simple jobs.

Active employment policies are funded with the Republic budget allocations, i.e. financial plan of the public employment service, collected unemployment contributions, territorial autonomy and local government budgets respectively, donations, loans and other sources of financing.

Every year, **local government units (LGUs) receive support** for the development and implementation of their local employment action plans (LEAPs). Following the situation at local labour markets, LGUs may develop and fund from their own budgets, special employment promotion measures targeting Roma. In 2017, there were 1.438 Roma men and women who were covered by active employment policies that were rolled out as envisaged under the LEAPs.

**The IPA 2012 Better Efficiency of Employment Policies Targeted at Vulnerable Population Project** supported a range of the activities carried out to further expand the network of job-clubs, career guidance centres and self-serving stations located in the public employment service branch offices and local government units, and inclusion of the unemployed into the trainings organised as a response to the demand at labour market, including piloting of a new measure of “employment roadshow”. In 2016, 60 job-clubs and 20 career guidance centres were opened. The **employment roadshows** were featuring in selected 20 PES branch offices based in the administrative districts

with underdeveloped municipalities. The measure was launched in September 2016 as an outreach action targeted at unregistered and unemployed population aiming at their activation through registration with the PES.

With the IPA 2012 support further 339 Roma job-seekers participated in the ALPMs (trainings as a response to the current labour market demand, public works and job-clubs). With the IPA 2013 support 36 unemployed Roma participated in the ALPMs.

In **2017**, under the GIZ-implemented **Youth Employment Promotion** Project, 944 young Roma men and women (including 198 readmission agreement returnees) received the services of **career guidance and counselling and participated in the training programmes**. In **2018**, **1.476** Roma and 349 readmission agreement returnees were covered by the ALPMs (career management, active job-search, student entrepreneurship and trainings as a response to current labour market demand/vocational training). Vocational training was offered to **265** persons of Roma national minority and returnees. The outcome of the measures implemented in 2018 was that 112 members of the Roma national minority become employed.

**There are certain categories of young persons (15-29) that also fall into the categories of harder-to-employ and are prioritized in terms of their inclusion in ALPMs.** Vocational training programmes (probation work and apprenticeships) are primarily designed for the young unemployed persons who have required qualification but are without professional experience to gain it, while the unskilled unemployed youth participate in trainings and other measures.

**For every young person who register with the PES as unemployed, a tailor-made youth pack of services is implemented** with the aim to prevent deterioration and outdated of competences (skills and knowledge) of relevance for competitive engagement at labour market and to deter long-term unemployment, which consists of the following components:

- 1) the assessment of the job-seeker's employability;
- 2) development of a tailor-made employment plan and of the measures most adequate for activation and enhancement of the employability of young persons;
- 3) job-matching and recruitment services and inclusion in active employment policy measures that may contribute to employment (career orientation and guidance on career planning, professional traineeship and apprenticeships, probation work for young persons with higher education, probation work for unemployed with high school education, employment and self-employment subsidies, functional primary education, etc.).

- *Indicators of economic growth*

Fiscal measures taken in 2015 gave good results. Economic activity was further boosted by the implementation of the labour and construction legislation reforms, resulting in significantly improved enabling business climate and growth.

In the period 2016-2018 the average GDP growth was 3.2%. In 2017, there was 2.0% growth of Serbian economy, which is below the initially projected ones, due to primarily unfavourable weather conditions hampering production processes and affecting the trends in construction sector and agriculture. In 2018, GDP growth was 4.4 %.

- *Unemployment rates disaggregated by sex, age and period*

**Unemployment rate of working-age population (15-64) was 18.2%.** In 2015, the rate of unemployment for women was 19.3% and 17.4% for men, which was 1.9 p.p. difference. In the period 2016.-2018 the unemployment rate of working-age population fell from 15.9% to 13.3% which was the difference of 2.6 p.p.

The number of unemployed working-age persons (15-64) was assessed to be 411.000 in 2018, which was a decrease for about 77.000 in comparison to 2016. Such a decrease in number of the unemployed and increase in the number of the employed had a reducing impact upon the unemployment rate by 2.6 p.p. in the reporting period. In the reporting period, unemployment of men and women was falling, with the resulting difference of 1.7 p.p. in 2018, which was still far from the EU-28 unemployment gender gap of only 0.4 p.p.

Structural unemployment challenges have not disappeared, as the large number of unemployed persons seek job for more than a year.

**Long-term unemployment rate**, which was at 7.9% in 2018, fell by 2.5 p.p. in the period 2016-2018. In comparison with the EU countries, long-term unemployment rate in Serbia is two times higher than the EU average (3.1%), and is almost at equal rate for women and men (only 0.7 p.p. difference in 2018). Long-term unemployment leads to obsolescence of knowledge, and with the decreasing probability of employment commensurately with the duration of the period of unemployment, it may result in long-term exclusion from labour market.

Unemployment rate and number of unemployed persons fell for all age cohorts, but the largest one is recorded among the youngest. In particular, in the total number of the unemployed in the period 2016-2018 (77.000), more than half (cca. 46.000 or 60%) were persons under the age of 34. Regarding unemployment rate, the greatest decline was recorded among young persons under the age of 24 (by 5.1 p.p.), the age cohort characterized with the highest unemployment rate.

**Youth unemployment rate (15–24)** which was 29.7% in 2018 decreased by 5.2 p.p. relative to 2016. However, it was a 14.5 p.p. increase in comparison with the EU-28 (14,5%)<sup>1</sup>. Young women at labour market have higher unemployment rate in comparison to young men, and the difference is 3.7 p.p. (32,9% and 28,3%).

Not only have the youth been unemployed, they are simultaneously not in work, education or training (NEET). In Serbia, there were cca. 120 NEET youth (16.5% in the total number of young persons in the age cohort 15–24) in 2018, which was a decrease in comparison to 2016, both in the number of the NEET young persons for 14.000, and of their share in total number of young persons falling within this age cohort, by 2.1 p.p.

Older persons (55–64) at labour market are in vulnerable situation, and Serbia, like most EU countries, is faced with population ageing. In the period 2016-2018, the rate of unemployment among this age group (55-64) fell by 0.3 p.p. (from 9.0% to 8.7%). However, regardless of favourable trend indicators, the labour market situation of older persons in Serbia is by far unfavourable in comparison to the EU-28 (61,9% in 2016, 58,7% in 2017, and 5,2% in 2018).

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<sup>1</sup> Only Greece, Spain and Italy recorded higher rates of youth unemployment in 2018 (39,9%, 34,3% and 32,2%).

Labour market situation is to the largest extent defined by the educational attainment, because education is a critical factor of labour market participation, which is supposed to ensure also the greatest employment opportunities.

**In the period 2016-2018, unemployment rate fell regardless of the level of educational attainment.** The highest unemployment rate in terms of educational level was recorded among the persons with high school education, which was 13.7% in 2018, which represented a decline of 3 p.p. in the reporting period. It is followed by the rate of unemployment among unskilled and low-skilled workers with 12.1%<sup>2</sup> (a decline by 0.4 p.p.), whereas the lowest rate of unemployment was recorded among the persons with higher education, with 10.8% (a decline by 3.1 p.p.). In terms of gender, it was observed that unemployment rates for women were higher than those for men of the same educational levels<sup>3</sup>.

- Public spending for passive and active labour market measures as GDP share

The allocations in the Republic Budget for the AEPMs has been on the increase for the recent couple of years. However, as GDP share it is only 0.08% (2018), which is not in line with the identified objective under the National Employment Strategy 2011 -20, according to which the share of spending for active measures is to be continually on the rise to reach 0.5% GDP in 2020. The amount of allocations needs to be increased not only to maintain the coverage by the active measures as it is but also to expand it.

| Year                                    | 2015.   | 2016.   | 2017.   | 2018.  |
|---|---------|---------|---------|--------|
| Allocations for AELMs in RSD, thousands | 3,3     | 3,35    | 3,35    | 4,2    |
| Current price GDP, RSD, billions        | 4.312,0 | 4.521,3 | 4.754,4 | 5068,6 |
| GDP %                                   | 0,08    | 0,07    | 0,07    | 0,08   |

- Coverage (number of participants in ALMS (trainings), activation rate (ratio between number of participants and unemployed persons)).

With the increasing allocations for ALMPs in the recent years, the number of persons registered with the PES who participate in ALMPs is on the rise (level of the allocated funds for the active employment policies has an impact on the number of persons who will be included). However, the allocations at annual level are sufficient to cover one-fourth registered unemployed.

In 2018, there were 552.513 registered unemployed, of which 294.978 were women. There are large numbers of the registered unemployed who fall in the category of harder-to-employ persons who

<sup>2</sup> Relatively low unemployment rate among persons with primary schooling or without education is a paradox which is linked with the very low activity rate among these persons. The cause lies in the fact that lower educational level not seldom combines with other vulnerability factors, since these persons belong to harder-to-employ population: older workers, rural population, persons with disability, Roma.

<sup>3</sup> Exception are men with lower levels of education or without education, where unemployment rates for women are below the ones for men.

have difficulties to find employment. According to the data available for 2018, among those unregistered unemployed, one-third was unskilled and low-skilled (33%). **Long-term unemployment** is a characteristic of the registered unemployed, given that according to the data for 2018, as high as 68% of the unemployed persons were seeking employment for more than a year. The share of the unemployed who are 50+ is 32% (one-third among the total number of unemployed), and of the young persons who are not older than 30 years of age the share is 21.6% (one-fifth of the total number of unemployed). In 2018, there were 117.078 young persons who were registered as unemployed with the PES, of which 62.742 women. The coverage by ALMPs of the unemployed young persons registered with the PES was 44%.

| 2.015                   |                   | 2.016                   |                   | 2.017                   |                   | 2.018                   |                   |
|-------------------------|-------------------|-------------------------|-------------------|-------------------------|-------------------|-------------------------|-------------------|
| Unregistered unemployed | Coverage by ALMPs | Unregistered unemployed | Coverage by ALMPs | Unregistered unemployed | Coverage by ALMPs | Unregistered unemployed | Coverage by ALMPs |
| <b>724.096</b>          | 150.953           | <b>700.947</b>          | 146.891           | <b>618.826</b>          | 156.869           | <b>552.513</b>          | 156.992           |

According to the NEAP Implementation Report 2015, the coverage by ALMPs was 150.953 unemployed persons, which was 20.8% of the total number of registered unemployed (situation on 31 December 2015). According to the NEAP Implementation Report 2016, the coverage by ALMPs was 146.891 unemployed persons, which was 21% of the total number of registered unemployed (situation on 31 December 2016). According to the NEAP Implementation Report 2017, the coverage by ALMPs was 145.356 unemployed persons, and with the IPA 2012 support, the coverage was which was 8.880 (of which 5.923 women) and on the basis of the concluded 43 agreements on technical cooperation with the local government units, additional 2.633 unemployed persons were covered by ALMPs. The total coverage in 2017 (regardless of the funding source) was 156.869 unemployed persons, which was 25.3% of the total number of registered unemployment (situation on 31 December 2017).

According to the NEAP Implementation Report 2018, the coverage by ALMPs was 152.936 unemployed persons, and with the IPA 2013 support, there were additional 1.896 unemployed persons who were covered by the measures, and under the implemented local employment action plans and technical assistance arrangements, there were additional 2.160 job-seekers. The total coverage in 2018 (regardless of the funding source) was 156.992 unemployed persons, which was 28.4% of the total number of registered unemployment (situation on 31 December 2018).

**In the period 2015-2018**, the coverage by ALMPs was 611.705 unemployed persons, of which in total 6.892 participated in the trainings organised as a response to the labour market demand, at employer's request and in the IT trainings).

### *Conclusion of the ECSR*

**The Committee concludes that the situation in Serbia is not in conformity with Article 1§1 of the Charter on the ground that it has not been established that employment policy efforts have been adequate in combatting unemployment and promoting job creation.**

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## **Article 15§2\***

Please provide updated information on legislation prohibiting all forms of discrimination in employment in particular on grounds of gender (if not accepted Article 20/Article 1 AP), race, ethnic origin, sexual orientation, religion, age political opinion, disability (if not accepted Article 15§2), including information on remedies.

Please indicate any specific measures taken to counteract discrimination in employment of migrants and refugees.

Please indicate what measures have been taken to assess the prevalence of the problem of exploitation of vulnerability, forced labour, modern slavery? Does legislation exist to deal with the phenomenon of exploitation of vulnerability, forced labour, modern slavery and does it make provision for the identification and protection of victims, enable prosecution of exploiters, or otherwise provide reporting requirements for businesses to detail actions taken to investigate their supply chains for forced labour, due diligence in public procurement to guarantee funds are not inadvertently supporting modern slavery? Are there regular inspections of sectors such agriculture, construction, hospitality, manufacturing and domestic work, which are particularly affected by labour exploitation? Please provide information on any measures taken to protect workers in the “gig economy” or “platform economy whose employment is very often precarious, against exploitation.

**In the period 2015-18, the Labour Inspectorate conducted the following number of inspections:**

- 2.401 in agriculture of which 888 were regular inspections,
- 33.462 in accommodation and food service activities, including hospitality sector, of which regular,
- 44.828 in construction, of which 23.857 regular,
- 34.909 in industry of which 10.647 regular.

**Enclosed with the Report are the data on the CLEAR project, its continuation, and on the measures taken to combat child labour.**

*Conclusion*

Pending receipt of the information requested, the Committee defers its conclusion.

Citizenship is not provided for under the Labour Code as a requirement for employment.

Under the Employment of Foreigners Law (Official Gazette of RS, 128/2014, 113/2017, 50/2018, and 31/2019), the number of foreign nationals to whom work permits shall be issued (hereinafter referred to as: quota) may be limited by the Government decision, in case of a distortion at labour market, in line with migration policy and labour market trends and situation.

The quota shall be set upon the recommendation of the ministry of employment in consultation with social partners, that is upon the obtained opinion from the National Social and Economic Council and PES.

The quota shall not be applicable to a foreign national, or undertaking (employer) that the foreign national concerned is employed with, applying for:

- 1) the personal work permit, except for the personal work permit issued upon a request of a special category of foreign nationals;
- 2) the work permit for secondment.

The staff of authorities are subject to Civil Servants Law (Official Gazette of RS, 79/05, 81/05-corr, 83/05-corr, 64/07, 67/07-corr, 116/08, 104/09, 99/14, 94/17, and 95/18). The section on the employment requirements (Art. 45), in addition to the requirements related to educational level and working experience, the post of civil servant shall be accessible only by an adult Serbian national who has required qualifications and is eligible in terms of other requirements provided for under law, regulation and staff rulebook, with no records of misconduct leading to termination of employment or final sentence to minimum six-month prison.

Rights and responsibilities of public employees (support services jobs) who are employed in civil service governed by general labour law provisions and not civil service law provisions, which is why as a result public employees are hired on contract of employment under the Labour Code. Therefore, public employee jobs in civil service are open for non-nationals.

The Civil Service Law does not impose any special language proficiency requirement. However, under the Constitution of Serbia, Art. 10, the official language is Serbian and Cyrillic alphabet, and the official use of other languages and script is governed under a separate law, on the basis of the Constitution. In Art. 2, para. 1 of the Official Language and Script Law (Official Gazette of RS 45/91, 53/93, 67/93, 48/94, 101/2005 – spec. law, and 30/2010), for the purpose of this Law, the use of an official language and script shall be their use in the activities of national, regional and local authorities, institutions, undertakings and other organisations when exercising delegated powers, on the basis of which it may be inferred that any civil servant, or other employee or a staff member of a regional or local government authority, public institution or other organisation with delegated powers must be able to speak and write Serbian.

The staff working in the regional and local government authorities shall be subject to Employment with Authorities Law (Official Gazette of RS, 48/91, 66/91, 44/98 – spec. law, 49/99 – spec. law, 34/2001 – spec. law, 39/2002, 49/2005 – CCRS decision, 79/2005 – spec. law, 81/2005 – corr. spec. law, 83/2005 – corr. spec. law and 23/2013 – CC decision), under which one of the employment requirements for regional or local authorities is that a candidate is an adult Serbian national. Also, under the newly adopted The Staff of the Regional and Local Authority Law (Official Gazette of RS, 21/2016, 113/17, 113/17 - spec. law, 95/18), in effect as of 1 December 2016, the Serbian nationality of an adult person is among employment requirements, which shall be in effect only upon the accession of Serbia to the EU.

The Gender Equality Law (Official Gazette of RS, 104/2009), in particular, its Section II, on employment, social and health care, Art. 11, para. 2, the undertaking shall to all the employees, regardless of their gender, ensure equal opportunities and treatment related to the access to labour rights and rights the employee is entitled to on the basis of employment relation, as provided for under the law governing labour. Under Art. 13, it is envisaged a roadmap on elimination or alleviation of unbalanced gender representation shall be adopted by an undertaking employing more than 50 fixed-term employees. Such an undertaking shall adopt the said roadmap for every calendar year. Under Art. 15 thereof, when advertising vacancies and job requirements, and when selecting and recruiting for any employment pattern, gender-based discrimination shall be prohibited unless there are otherwise valid justifications as specified under the law governing labour. Under Art. 17, an employee, regardless of gender, shall be entitled to equal pay for equal work as provided for under law governing labour. Under Art. 22, para. 1 an employment organisation shall ensure equal access to jobs and equal treatment in employment and occupation of both genders in paras. 3 and 4

thereof, the employment organisation shall promote employment and self-employment of underrepresented gender by covering a larger number of members of that gender by specific active employment measures. Such measures shall ensure: affirmation of equal labour market opportunities; career guidance and counselling, tailor-made employment plan; additional education and trainings; other activities aimed at promotion of self-employment and employment of underrepresented gender. Under Art. 54, penal provisions are envisaged for misdemeanours made by undertakings, responsible persons or entrepreneurs, if they fail to adopted an annual report on the implementation of the said roadmap; than if in hiring for any pattern of employment seeks to learn or use information on family life or plans of the candidate; if when advertising vacancies, job

requirements or when selecting and recruiting discriminates on the basis of gender; if when assigning to a job violates provisions on gender equality; if violates the provisions on equal pay for equal work for men and women, among others.

Under Art. 60 of the Constitution of Serbia (Official Gazette of RS, 98/2006), right to work under law shall be guaranteed to anyone, including the right to free choice of occupation, all jobs shall be accessible under the equal requirements. Further, under Art. 21, para. 3 of the Constitution, any discrimination, indirect or direct shall be prohibited, on any grounds, and in particular on the grounds of race, sex, national extraction, social status, birth, religion, political or other opinion, property, culture, language, age and mental and physical disability. These rights are further specified in the Prohibition of Discrimination Law (Official Gazette of RS, 22/2009), under art. 2 para. 1 where discrimination is defined as an unwarranted discrimination or unequal treatment, or omission (exclusion, limitation or preferential treatment) in relation to individuals or groups, and members or their families or persons close to them, be it overt or covert, on the grounds of race, skin colour, ancestors, citizenship, national affiliation, sexual orientation, financial position, birth, genetic characteristics, health, disability, marital and family status, previous convictions, age, appearance, membership in political, trade union and other organisations and other real or presumed personal characteristics. Further, in para. 2 it is specified that prohibition of discrimination shall be applicable to any person residing in the territory of Serbia, or a territory under its jurisdiction, regardless of whether that individual is a national of Serbia, any other state or a stateless person, or any legal entity registered or operating in the territory of Serbia. Under art. 4 thereof it is explicitly specified that all persons shall be equal and shall enjoy equal status and legal protection regardless of personal characteristics, and that everyone shall respect the principle of equality, and prohibition of discrimination. The Section VI is about judicial protection. Thus, under art. 41 anyone who has suffered discriminatory treatment shall have the right to initiate a lawsuit, the provisions of the law governing litigation proceedings shall apply accordingly to such a lawsuit. The proceedings shall be conducted urgently, and judicial review shall always be admissible. Further details on the judicial protection and interim measures are specified in art. 42-46 of the Section VII (art. 50-60) is about penal provisions for discriminatory treatment. These are measures taken for misdemeanours, such as fines the amount of which spans from RSD 5.000 to 100.000.

### **The ECSR request**

In its previous conclusion, the Committee asked information on the procedure to be followed in cases alleging discrimination, for example whether there is a shift in the burden of proof (Conclusions 2012). It also asked whether associations, organisations or other legal entities have the right to obtain a ruling that the prohibition of discrimination has been violated in the employment context.

Regarding the right of associations, organisations and other legal persons to get court decision that the prohibition of discrimination has been violated in the context of employment, the Civil Suit Procedure Law in its art. 141 reads that the lawsuit, decision on pay order, judgement, decision against which the appeal is admissible and legal remedy are to be delivered to the party in the litigation in person, or to its legal representative or counsellor. Therefore, if a legal person is a party in litigation it is entitled to delivery of a court decision.

## The ECSR request

The Committee requested information on the number of cases alleging discrimination brought before the courts, as well as the number of findings of discrimination and information on any pre-defined limits to the amount of damages that may be awarded (Conclusions2012). The report does not provide the requested information. The Committee reiterates its question. It points out that should the next report fail to provide the requested information nothing will prove that the situation in Serbia is in conformity with Article 1§2 of the Charter on this point.

Equality Commissioner is an independent authority which, inter alia, and as provided for under art. 33 of the Prohibition of Discrimination Law, is competent for filling actions as referred to in art. 43 thereof (as it has been referred to in the CoE comments), for the violation of the rights guaranteed under the law, which are filed personally, with the consent and for the account of the discriminated, unless the procedure has already been instituted before court for the identical case or has been resolved in the final court decision. Equality Commissioner, the authority that has active legitimation in court proceedings, may not by filing an action claim indemnity for material or non-pecuniary damage, in compliance with art. 46, para. 1 with regard to art. 43 of the Prohibition of Discrimination Law.

In the reporting period (1. January 2015 – 31 December 2018) the Commissioner instituted 17 proceedings before competent courts, with the following outcomes:

Seven proceedings completed with final decision in favour of the Commissioner, in which case the court had accepted the complaints in full. In two cases, the Commissioner withdrew a complaint, given that the defendant in one case reversed the contested decision, and in other case amended the Rulebook which was the cause of the complaint. One proceedings were cancelled as the defendant had been deregistered from the register of companies. Two proceedings completed in dismissal of the complaint. In the five proceedings the final decision is pending (in three the court issued the first-instance judgement in favour of the Commissioner, and in two the first-instance judgement is pending).

Also, Equality Commissioner highlights that regarding the posed question, it is not competent to maintain records/register on every court proceeding. Thus, one of the recommendations for elimination of discrimination and promotion of gender equality which the Commissioner has given in its regular annual activity report refers, inter alia, to the required amendments to the Prohibition of Discrimination Law, to adequately address the establishment and putting in operation an integrated, centralized and standardized system for the collection and analysis of relevant data to be used in monitoring of discrimination and efficiency of the anti-discrimination system, including allocation of the required budget funds for its implementation.

## The ECSR request

The Committee asks that the next report provide information on the manner in which the authorities ensure the implementation of the anti-discrimination legislation in employment. It further asks the next report to provide information on any concrete positive measures/actions taken or envisaged to promote equality in employment and to combat all forms of discrimination in employment.

Under art. 8-21 of the Labour Code it is prohibited to discriminate job-seekers and employees on the basis of sex, birth, language, race, skin colour, age, pregnancy, health, disability, nationality, religion, marital status, family responsibilities, sexual orientation, political or other belief, social extraction, property, membership in political organisations, trade unions or any other personal characteristic.

The question of inclusion of the categories of persons who are in the most disadvantaged situation in comparison to general population (members of national minorities, persons with disability, older persons, unskilled, with low educational level, refugees and displaced persons, etc.) in all the spheres of social life, including also stimulation of their participation in active employment policies is emphasised in the effective strategic and legislative framework, such as National Employment Strategy 2011-20 (Official Gazette of RS, 37/11) and National Employment Action Plan which is an annual document.

Employment and Unemployment Insurance Law (36/09, 88/10, 38/15, 113/17-spec. law, and 113/17) is based on the principles of antidiscrimination, including also implementation of affirmative actions targeted at harder-to-employ groups.

The Vocational Rehabilitation and Employment of Persons with Disability Law (RS 36/09 and 32/13) is based on the principles of antidiscrimination of persons with disability and provides for the introduction of a set of promotional measures for accelerated, efficient and more sustainable occupational and social integration of persons with disability, with the aim of developing an inclusive, equal opportunity-based labour market.

National Action Employment Plan 2018 RS 120/17) identifies harder-to-employ persons, i.e. persons prioritized for their participation in active employment measures. Simultaneously, specific measures are targeted exclusively at certain categories of unemployed persons with the aim to enhance their employability or provide additional employment support (e.g. in the context of a subsidy for self-employment of the harder-to-employ who seek job there are 7 categories of the eligible unemployed, while for 4 categories the initial amount has been increased by 20% with the intention to provide additional support for their labour market integration; regarding the self-employment subsidy, the amount has been increased in the case of persons with disability and the unemployed who wish to set up their own business; further education and training programmes have been adapted to the needs of the target group (depending on their level of qualification, if they have previous professional experience or not, or if they are being trained to perform a concrete assignment of a concrete job, etc.); for the public works, mandatory quota is set in such a way that minimum 70% of unemployed persons hired to perform public works who must fall within any of 5 categories of the harder-to-employ).

As the Commissioner explained in its report submitted within its remit, as provided for under law, the Commissioner took note of the moment of the establishment of this institution when the first Commissioner was appointed, in May 2010, as the first step taken to fulfil one of the obligations provided for under the Prohibition of Discrimination Law. Equality Commissioner functions as an independent national-level authority, in compliance with, among other things, the Report of Equality Commissioner 2016-20, and accompanying Action Plan, and in compliance with other legal obligations. The Commissioner service has two departments – for the promotion of gender equality,

relations and projects and complaints department (general affairs are carried out within the third department). At the Complaint Department, proceedings are instituted against the received complaints, under law. The Department for the Gender Equality Promotion, Relations and Projects covers diverse activities the aim of which is to raise public awareness and of professional communities on the illegality of discriminatory phenomena, as well as on the identification of discrimination in society and its prevention.

Upon the completion of the proceedings instituted against filed complaints, the Commissioner shall issue recommendation for elimination of discrimination on case by case basis. The percentage of complying with the recommendation is high. In 2018, in 78.2% cases the recommendations were complied with and followed, in 2017 in 75,86% cases, in 2016 – 76.7%, and in 2015 – 89.1%

Also, the Commissioner gives recommendations on the achievement of gender equality in public authorities and other entities. For example, in 2018 98.3% recommendations were followed, in 2017 – 91.60% and in 2016 – 93.3%.

Regarding gender equality promotion in employment, the Commissioner, within its remit, takes action against the filed complaint on case-by-case basis. If the Commissioner establishes that a discrimination offence has been committed, a case-by-case recommendation is made on how to address it. Further, the recommendations the Commissioner gives to public authorities in the context of the achievement of gender equality are mostly related to employment and occupation. When the recommendations are complied with and followed, equality is enhanced and the existing form of discrimination is eliminated.

From 2015. to 2018 the Commissioner predominantly dealt with the complaints filed for violations of prohibition of discrimination in occupation and employment. Every year, this field of social relations was placed on top, at the first place, except in 2018, as per the number of the complaints filed (2015-36.2%, 2016-33.9%, 2017-31.2%, 2018-20.8%). To promote equality in employment, the Commissioner organised a number of activities. Awareness raising among professional communities and public is continuously conducted. One of the activities with a great impact has been the development of a special manual for employers – Equality Code – with guidelines for employers on how to prevent in their working environment discriminatory cases and promote their and the knowledge of their employees on what is discrimination and how it is manifested. Partnership and Equality is another of such actions conducted by the Commissioner, in the context of which the employers in Serbia were invited to join the Commissioner in promotion of equality and in prevention of discrimination in occupation and employment.

In the reporting period, Equality Commissioner initiated 6 litigations for discrimination in occupation and employment on the basis of various personal characteristics.

### The ECSR request

In its previous conclusion (Conclusions 2012), the Committee asked for information to enable it to determine how far human freedom and dignity are protected by legislation and the courts against intrusions into personal or private life that may be associated with or result from the employment relationship.

In Art. 26, para. 2-3 of the Labour Code, employer may not require from the candidate to provide information on family and marital status, family planning, i.e. to required delivery of other credentials or other evidence which are not of immediate relevance for the performance of the job assignments. Employer may not make employment conditional on a pregnancy test.

#### The ECSR request

The Committee reiterates its question whether there are any types of restrictions for foreign nationals to access certain public or private jobs/position such as the requirement of being a national of Serbia and which are those categories of jobs/positions.

Citizenship is not provided for under the Labour Code as a requirement for employment.

Under the Employment of Foreigners Law (Official Gazette of RS, 128/2014,113/2017,50/2018, and 31/2019), the number of foreign nationals to whom work permits shall be issued (hereinafter referred to as: quota) may be limited by the Government decision, in case of a distortion at labour market, in line with migration policy and labour market trends and situation.

The quota shall be set upon the recommendation of the ministry of employment in consultation with social partners, that is upon the obtained opinion from the National Social and Economic Council and PES.

The quota shall not be applicable to a foreign national, or undertaking (employer) that the foreign national concerned is employed with, applying for:

- 1) the personal work permit, except for the personal work permit issued upon a request of a special category of foreign nationals;
- 2) the work permit for secondment.

#### The ECSR request

##### *Work of prisoners*

The report states that the above-mentioned definition of forced labour may also under certain circumstances cover prison work. The Committee asks that the next report provide more details.

Under art. 98 of the Enforcement of Criminal Sanctions Law, the work of prisoners is an integral part of the correctional programme. A prisoner may be hired to work in the facility or out of it only if such an arrangement has been reached upon the prisoner's consent and confirmed in writing the prisoner's written statement. There are not any consequences for a prisoner who do not wish to be hired. A prisoner may at any time refuse to be further employed regardless of the previously given consent. The purpose of employment (hire, work) is to enable a prisoner to develop, maintain and enhance working capacities, working habits and vocational knowledge and skills leading to effective reintegration. Under art. 98 of the Enforcement of Criminal Sanctions Law, the work that a convict performs shall have a purpose and may not be degrading. The economic benefit resulting from such a work may not annul the purpose achieved by such a work. The type of work a prisoner will be engaged in shall be determined according to the prisoner's mental and physical abilities, vocational



qualifications, expressed wish and taking into account the possibilities of the facility. Mental and physical capacities shall be assessed by an expert team based at the facility.

Enclosed – Written statements given by prisoners.

Legal remedies which may be applied against administrative actions and administrative legal papers in the procedure conducted before PES are complaint and appeal.

Under art. 80 of the Employment and Unemployment Insurance Law (RS/36/09, 88/10, 38/15, 113/17-spec.law, and 113/17) decision on employment benefit shall be the subject of general administrative procedure. In the reporting period there were to regulations in effect governing the matter. Before 31 May 2017, General Administrative Procedure Law (RS 33/97 and 31/0, and RS “30/10) was in effect, and after 1 June 2017 the new GAP Law (RS 18/16). PES conducts both the first-instance and second-instance (appellate) procedure in case of the alleged violation of the entitlement to unemployment benefit. The first-instance procedure is conducted upon the parties’ request before PES branch offices, and the second-instance authority is the director of the PES.

The appeal is an ordinary legal remedy that may be used against any other decision made by the first-instance authority. Administrative dispute may be instituted against the final decision issued by the second-instance authority before Administrative Court.

The new GAPL introduced a completely new legal remedy into the national legal order – complaint (objection) (art. 147 to 150 of the GAPL). It may be filed, inter alia, against administrative actions taken, and PES, shall within its remit take administrative actions such as recordkeeping (maintenance of registers), issuance of certificates, provision of information. The objection as a remonstrative legal remedy (unlike an appeal which is devolutive in its character) shall be filed with a manager of the authority that took or should have taken the action which is the subject of objection. The objection filed shall be addressed by an appealable decision given that it is a legal administrative document.

### **Article 1§3**

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

### **The ECSR request**

In reply to the requests made by the Committee in its previous conclusion (Conclusions 2012), the report provides the following information: a) the total number of employment counsellors performing activities of mediation in branch offices is 618; b) activities of career planning (vocational guidance) are performed by 49 employed persons; c) the ratio of unemployed persons to the employment counsellors in branch offices is 1.177 unemployed persons per counsellor (branch offices); d) the placement rate was 57,56% in 2011 (61,804 vacancies – 35,576 employed persons); 59.37% in 2012 (55,583 vacancies – 32,998 employed persons); 59,10 in 2013 (44.148 vacancies – 26,093 employed persons); and 53.94% in 2014 (42,563 vacancies – 22,959 employed persons). The Committee asks that the next report provides comments on the decrease of the placement rate.

Following the Decision on capping fixed-term employment contracts in public authorities, public services, at national, regional and local levels, the cap for the PES was set at 1.653 indefinite-term employees.

On 31 December 2019, 1.615 fixed-term staff were employed with the PES, and 147 for indefinite period hired as a response to increased workload, 41 staff was working as substitutes of those who are absent from work, and one worker who was hired under temporary and casual employment contract.

On 31 December 2019, there were 613 staff working as career counsellors (541 for indefinite and 72 for fixed term). The number does not include career counsellors who are temporary replaced (who are at protracted sick-leave, whose employment relation is in dormancy, etc.). Of the said number 31 staff work as career counsellors for persons with disability (28 for indefinite and 3 definite term).

On 31 December 2019, 91.35% of certified career counsellors, the certification introduced in line with the methodology rolled out under the Work Bank –supported project. Standard „deviation “is 263, and average workload as per a counsellor is 872.

### The ECSR request

Having regard to the unemployment rate in Serbia, the Committee asks that the next report provide the requested information on the average length of time in filling vacancies.

Advertisements on vacancies are received and registered by the PES using the IMS document „Notifying, Registering and Advertising Vacancies and Employers “. The applicant employer shall be notified on the possibility of filling the vacancy not later than 48 hours from the submission of the Vacancy Application Form, or to the Head Office of the PES, when the vacancy cannot be filled with the assistance of the applied to branch office, in which case two or more branch offices are required to take part in the inter-regional recruitment procedure. Using the Report Form on Filled Vacancy the employer shall report on every recruitment completed within one year from the application. During that year, the recruitment officer will be closely following up on the recruitment and in 10-day intervals from the referral of the candidate (unless otherwise arranged with the employer) requests the employer to submit the Report Form on Filled Vacancy. If the employer fails to comply with the reporting obligation within one year from the application, the recruitment officer shall „close “the application/report, officially noting the „closure “. If within 3 months from the completed recruitment, or referral of the candidate to the employer, the PES does not receive any feedback and the employer is not available, the application/report will be closed.

### Article 1§4

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

### Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 1§4 of the Charter on the following grounds:

- it has not been established that the right to vocational guidance within the education system is guaranteed;
- it has not been established that the right of an employed person to an individual leave for training is guaranteed;
- it has not been established that the right of persons with disabilities to mainstream education and vocational training is effectively guarantee

To increase youth employment rate, it is essential to invest efforts to train young people for consciencious and responsible transition to world of work. The educational system offers retraining, further training and advanced training programmes widening the selection of occupations in response to labour market demand at national level. These programmes offer to students wide spectre of occupations in seventeen labour areas represented in the educational system.

Also, the educational system offers a model of dual education (learning by doing), to enable the students to be trained for a preferred occupation as early as at high school and acquire required working and professional competences for the given occupation enabling them facilitated entry into labour market.

Under art. 49 of the Labour Code (RS/ 24/2005, 61/2005, 54/2009, 32/2013 and 75/2014) employer shall ensure education, training and skills upgrade for the employees when process of work so requires, including the introduction of the new method and organisation of work. Costs of education, vocational training and skill upgrade shall be covered from the employer' fund and other funds, as provided for law or legal document of general application. In case an employee drops out of education, training or upgrade, s/he shall recover the costs if there are no justifiable reasons for dropping out. The employee' obligation to stay in employment relation after the completed education, training or skill upgrade is not provided for under the Labour Code. The Agreement regulating rights and responsibilities on the basis of specialization concluded with the employee is an agreement falling in the category of contractual relations and the procedure of indemnification under such an agreement shall be conducted as provided for in general regulations on indemnification. The Decision on cancellation of employment contract should not contain rights and responsibilities from any other contract or have any impact on the access to court proceedings likely instituted as a result of such other contracts.

Occupational rehabilitation is a process ensuring acquisition and enhancement of the competences of persons with disability in response to labour market demands. It consists of the procedures and measures taken to train persons with disability for relevant chosen occupation or job and is basis for efficient labour market inclusion of persons with disability. The aim of occupational rehabilitation is to maximally develop physical, social, emotional, educational and labour capacities within the existing limits. Rehabilitation is always about remaining capacity and not about incapacity.

In the context of occupational rehabilitation activities for unemployed persons and employers are implemented.

For unemployed persons with disability we carry out the following services:

Occupational assessment – assessment of working capacity, giving insight into mental and physical capacities, interests, stamina, including limitations, partially or fully preserved capacities of relevance for future professional activity.

Career guidance – orientation – consisting of organised activities of the provision of assistance in selection of occupation with view to career guidance on the basis of individual capacities, remaining capacities and labour market demands.

Career information – information on occupations, with the description of concrete jobs and labour market demands to form an active attitude in occupation selection.

Career counselling – provision of individual assistance to make final decision of occupational choice.

Occupational training – to develop knowledge and skills for concrete job. Implemented as retraining, further training and programmes of training for specific job post.

Trainings – accessible for persons with disability in terms of space, information and programme.

### Preschool education

Preschool Education Law (RS/18/10) regulates preschool education integral to an overall education system. Access to preschooling is one of the underlying principles of the Law, equal right and access to all forms of preschool education, without discrimination and segregation on the basis of developmental challenges and disabilities.

Enrolment of children in preschool facility is conducted in compliance with the Law. Children in vulnerable situation have priority in terms of their enrolment in a preschool facility at national, regional and local levels

Parents shall enrol their children in preschool facility, or school to attend preparatory preschooling curriculum, as provided for under the Law.

The classes consist of 4 to 6 children with developmental challenges.

A teaching assistant provides assistance and support to a child taking into account its needs, in cooperation with educators and teaching associates, parents or guardians offers assistance and additional support to children, taking into account their needs, cooperates with educators and pedagogical associates, parents, or guardians, and in coordination with director of the facility

cooperates with competent institutions, organisations, associations and local government units, under the Law.

## Article 9

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

### Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 9 of the Charter on the ground that it has not been established that the right to vocational guidance within the education system is guaranteed.

### The ECSR request

#### *Vocational guidance within the education system*

The report refers to the Strategy of Career Guidance and Counselling in the Republic of Serbia, adopted in 2010, and its Action Plan 2010-2014, as the main reference documents concerning career guidance and counselling in the sector of education and employment. The Strategy defined the objectives of career guidance and counselling (objectives related to life-long learning, labour market, social involvement and inclusion), activities, principles, organisational forms, services and users of services of career guidance and counselling. A working group was established in 2011 to monitor its implementation, until 2014. The Committee also notes from the report that further measures concerning vocational guidance within the education system were included in certain National Employment Action Plans (NEAPs) which were issued during the reference period in the framework of the National Employment Strategy 2011–2020. The Committee asks the next report to provide comprehensive and updated information on the measures effectively implemented during the reference period and their results.

According to the data available from the PES Activity Report 2015, 5.035 persons benefited from the services of direct career counselling at the Career Counselling Centres, which was the effective 91.55% of the planned under the annual work plan. Digital interactive version of the Guide for the Selection of Occupation<sup>4</sup>, career planning after the completion of primary school ([www.vodiczaosnovce.nsz.gov.rs](http://www.vodiczaosnovce.nsz.gov.rs)), 87.703 visitors were registered, which was effective 125.29% of the planned under the annual work plan. 109.575 visits were registered, of which 23.274 (21.20%) were revisits, with 86.301 (78.80%) new visits. In cooperation with schools and other relevant actors in the field of employment at regional level, the PES participated in 11 fairs and other events organised in the field of career guidance and counselling. To improve provision of information via the PES web site, two new applications have been installed: the video game Career Journey and bulletin What to Learn, what to Do? The target group of the video game „Career Journey “are pupils in junior primary school classes, the aim of which is to motivate pupils to

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<sup>4</sup>The UN - supported Peacebuilding and Inclusive Local Development (PIBILD)

actively reflect on their interests and on different occupations. It has been developed in the context of the UN programme. The guide „What to Learn, What to Do? “offers information on educational profiles, secondary school, curricula, job descriptions. It is for all those who need to choose between secondary school applied and general education, and for those who provide support in the context of long-life career development (for experts, parents and other interested parties). 10.832 persons benefited from the counselling services on the options for career development, representing effective 86.66% of the envisaged plan. Such an increased coverage by the counselling services on the options of career development (16.314) indicates that on average every second person benefited from more than one relevant service.

In 2016, 3.346 persons benefited from the services of direct provision of information at the Career Counselling and Information Centres (CCICs), representing effective 83.65% of the planned under the annual work. In total, 20 new CCICs (10 at local self-governments in the territory of PES branch offices: Loznica, Kraljevo, Novi Pazar, Krusevac, Nis, Pirot, Uzice, Leskovac, Kosovska Mitrovica, and Valjevo and another 10 at PES branch offices in Kikinda, Zrenjanin, Pancevo, Jagodina, Sabac, Pozarevac, Kragujevac, Zajecar, Sremska Mitrovica and Cacak). CCICs were established under the IPA 2012 Project “Increasing Effectiveness of Employment Policy Towards Vulnerable Groups”. In the reporting period, 5.141 persons used the services of direct provision of information at the newly opened CCICs (51.45% of the planned under the annual working plan). Also, in the same period 100.809 visitors to e-Guide for the Selection of Occupation were registered (114.94% of the planned). 100.199 visits were registered, of which only 20.809 (20.80%) are revisits and 79.390 (79.20%) original visits. Also, there were 21 participations in the fair and other events on career guidance and counselling. 10.270 persons benefited from service of counselling on the career opportunities, which is 102,70% of the planned. The number of provided services on career development opportunities was much higher (15.793), indicating that every second person used more than one of the services of this type.

In 2017, 2.421 persons benefited from the direct information provision at CCICs based in the branch offices in Belgrade, Nis and Novi Sad which was 60.53% of the initial annual plan, and 9.426 persons benefited from the service at 20 newly opened CCICs which was 189,04% of the initially planned under the annual work plan. In the reporting period, there were 67.685 visitors consulting E-Guide on the Selection of Occupation, for career planning upon completed primary school ([www.vodiczaosnovce.nsz.gov.rs](http://www.vodiczaosnovce.nsz.gov.rs)), which is 96.69% of the annual work plan. In cooperation with secondary schools and other relevant employment actors at regional level, the PES organised and took part in 37 career orientation fairs and other events related to career planning, the target of which were pupils in higher grades of primary school and secondary school students. 9.721 persons benefited from the counselling on career opportunities, which was 97.21% of the annual work plan. The number of the provided services on carer opportunities is much higher (14.710), indicating that every second person used on average more than one of the services of this type.

In 2018, 6.744 persons benefited from the direct information provision at CCICs, which was 96.34% of the annual work plan. In the reporting period, there were 54.358 visitors consulting E-Guide on the Selection of Occupation, for career planning upon completed primary school

[www.vodiczaosnovce.nsz.gov.rs](http://www.vodiczaosnovce.nsz.gov.rs)), which is 77.65% of the annual work plan. 66.952 visits were registered of which 8.235 (12.30%) were revisits, and 58.717 (87,70%) first visits. This decrease in the number of visitors can be attributed to the fact that from 24 January to 14 February 2018, when the highest number of visitors is recorded, the site was not working. In cooperation with schools and other relevant employment actors at regional level, the PES organised and took part in 32 fairs of career orientation and other events related to career planning. Also, the PES took part in/delivered 28 forums/workshops/lectures for young people, across Serbia, organised in cooperation with local partners (Chamber of Commerce of Serbia, Youth Office, local government units, etc.) on career guidance and counselling and career management skills. 10.177 persons benefited from the career counselling services, which was 101.77% of the work annual plan. To promote development of long-life career guidance and counselling and adult education, a MoU was signed with the Temups Foundation early in 2018.

Career guidance and counselling centres have been established at universities, faculties and other higher education institutions (HEIs), offering support to students. At the HEIs owned by the state, the state allocates resources for their operation and for equipment and provision of the conditions enabling students with disability to take their studies.

At the schools, career guidance and counselling programme is offered which is relevant for career planning, because in addition to psychological assessment of working potentials it includes a many activities beyond mere selection of occupation (courses, trainings, volunteering activities, practice, experience, etc.). The career guidance and counselling programme includes provision of career information, counselling, education for the chosen career, career guiding and monitoring under which secondary school students prepare for decision-making on continuation of their career development, i.e. whether to continue education or transit to labour market.

### The ECSR request

The Committee asks the next report to indicate the budget allocated to NES services related to vocational guidance and career counselling in the labour market.

Career counsellors and career planning methodology and provision of career information carry out the activities of carer guidance and counselling as part of their regular assignments of the job post, that is, there are no separate allocations within allocations for active labour market policies for such purposes.

Under the National Qualification Framework Law:

Career guidance and counselling shall be provided to ensure support for the progression of an individual through all the levels of the NQF, facilitating thus the application of the LLL concept and labour force mobility.

Career guidance and counselling services shall be offered in line with career guidance and counselling services issued by the minister in charge of education.

Career guidance and counselling services shall be provided by the Public Employment Service, publicly recognized adult education organiser (AAO) as provided for under law governing adult education and higher education institutions under the law governing education.

Vocational orientation programme, i.e. career guidance and counselling programme for pupils and students shall be implemented by primary, or secondary school, as provided for under the law governing primary, or secondary education and under the standards referred to in paragraph 2 thereof.

To increase youth employment rate, it is essential to work on their training for conscientious and responsible transition to world of work. Education system offers retraining, further training and specialisation programmes extending occupational choice in response to labour market demand and needs at national level. Such programmes offer to students wide range of occupations falling within 17 areas of work represented in the education system. In addition, the education system offers a model of dual education (learning by doing) to train students as early as in secondary school for a preferred occupation and to develop required working and professional competences for the given occupation enabling them facilitated transition to labour market.

#### **Article 10§1\***

Please state what strategies and measures are adopted to match the skills acquired through vocational education and training with the demands of the labour market, especially demands resulting from globalisation and technological developments, and thus to bridge the gap between education and work.

Please provide information on measures taken to integrate migrants and refugees in vocational education and training.

Human resources development, career guidance, employment and vocational training policy development is the remit of three ministries: for education, science and technological development, for youth and sport, for labour, employment, veterans and social affairs. The establishment of the National Framework of Qualifications of Serbia ensures mechanisms of social partnerships among all actors at labour market: education system redefines its labour market supply in terms of formal education, and on the other hand, service providers of non-formal education offering accredited training programmes can swiftly and efficiently intervene at competences market.

Employment policy is an integral part of the human resource development, which is designed on the basis of the data analysis and projections of labour market trends, that is on the basis of examined and monitored labour market trends, situations and future demand by employers at national and regional level with an aim to adjust active employment policies to labour market needs.



**Further education and training**, consist of the activities providing to an unemployed person or employed person who cannot find or maintain an adequate job an opportunity to develop, through the process of theoretical and practical training, new knowledge and skills for employment, i.e. creation of employment or self-employment opportunities. Further education and training is organised by the PES at the request of an employer or as a response to labour market demand.

The programme of further education and training is based on labour market needs analyses, employer's need analysis in terms of demanded knowledge and skills required for the performance of concrete jobs, as established in the direct contact with the employer. Thus, further education and training is organised for such areas of work in which there are shortages of the required knowledge and skills.

**Further education and training annual programme** designed as a response to labour market needs identified under the AP is implemented by the PES on its own, at the undertaking in the form of the on-the-job training or by means of specialised training providers with which, under the previously conducted procedure of public procurement, contract is awarded for the delivery of specific training programmes. **Further education and training programme consists of the following trainings:** *Probation work programme for the unemployed persons who have completed secondary education; Apprenticeship programme; Traineeship programme, Training as a response to labour market demand; Specialist IT trainings in line with the labour market demand; Training at employer's request; training for employees at employer's request, Functional primary adult education.*

As of 2011, PES in cooperation with the undertakings conducts a survey on the employers' needs, with the aim to collect information on current and projected needs of the undertakings in terms of educational profiles of workers. The results of the survey are used to inform designing of the training programmes listed in the PES Training Catalogue.

Undertakings with vacancies contact the PES for recruiting services, which takes measures to satisfy the reordered needs to fill vacancies. PES reports indicate that with such job-matching services 50% of vacancies become filled annually. Often the reasons for dissatisfaction are the following: referred to job-seekers refuse the job offer, absence of registered job-seekers with the required skills and knowledge, a number of registered vacancies are not followed up by any feedback on filled vacancy.

If there are no job-seekers registered with PES with required skills and knowledge for the concrete job, trainings as response to employers' demand are identified and foreseen under the National Employment Action Plan. The absence of more complete information on labour force demand hampers labour force demand and supply matching in terms of the occupations and special knowledge and skills and development of the Catalogue of Trainings as the Response to Labour Market Demand.

## **Article 10§2**

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

The Committee adopted the conclusion that the situation in Serbia is in line with the requirements of Article 10, paragraph 2.

## **Article 10§3\***

Please describe strategies and measures (legal, regulatory and administrative frameworks, funding and practical arrangements) in place to ensure skilling and re-skilling in the full range of competencies (in particular digital literacy, new technologies, human-machine interaction and new working environments, use and operation of new tools and machines), needed by workers to be competitive in emerging labour markets.

### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with the Charter on the ground that it has not been established that the right of an employed person to an individual leave for training is guaranteed.

Under Article 49. of the Labour Code (RS 24/2005, 61/2005, 54/2009, 32/2013 и 75/2014) Employer shall provide conditions for education, vocational training and advanced training for his/her employees when the work process requires so, or when new methods and organization are to be introduced. The cost of such education, vocational training and advanced training shall be provided from the funds of the employer and other sources, pursuant to the law and legal document of general application. In case an employee drops out of the education, vocational training or advanced training, he/she shall compensate the cost of such training to the employer, except in case where reasons for such dropping out were justified. The obligation for the employee to remain in employment after completed education, vocational training or advanced training is not provided for under the Labour Code. The agreement regulating rights and responsibilities on the basis of specialisation concluded with the employee is a contractual obligation agreement and the proceedings to address the indemnification under such an agreement shall be conducted as provided for under general regulations on indemnity. A decision on termination of the contract of employment may not contain the rights and responsibilities from any other contract nor have an impact on the access to likely court proceedings that might be instituted as a result of such other contracts.

## **Article 10§4 ESC**

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

### Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 10§4 of the Charter on the ground that it has not been established that special measures for the retraining and reintegration of the long-term unemployed have been effectively provided or promoted.

### Article 10§4 RESC\*

Please indicate the nature and extent of special retraining and reintegration measures taken to combat long-term unemployment as well as figures demonstrating the impact of such measures (please include detailed statistics on long-term unemployment in your country, if not provided under Article 1§1).

From 2015 to 2018 the number of registered unemployed fell by about 24%, or for 171.583 persons.

From 2015 to 2018. the number of long-term unemployed decreased for 112.307 persons (23%).

According to the data available with PES in 2018 the participation of long-term unemployed persons was 68%.

| Year                            | 2.015          |           | 2.016          |           | 2.017          |           | 2.018          |           |
|---------------------------------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|
|                                 | Total          | Long-term | Total          | Long-term | Total          | Long-term | Total          | Long-term |
| Serbia                          | <b>724.096</b> | 484.566   | <b>700.947</b> | 470.474   | <b>618.826</b> | 428.194   | <b>552.513</b> | 372.259   |
| Belgrade region                 | <b>105.724</b> | 63.444    | <b>104.132</b> | 64.017    | <b>87.623</b>  | 56.859    | <b>75.443</b>  | 48.290    |
| Vojvodina region                | <b>174.854</b> | 109.027   | <b>160.557</b> | 100.348   | <b>134.214</b> | 86.595    | <b>114.926</b> | 71.722    |
| Sumadija and West Serbia region | <b>236.516</b> | 168.602   | <b>233.275</b> | 165.872   | <b>210.505</b> | 153.611   | <b>192.777</b> | 135.503   |
| South and East Serbia region    | <b>185.926</b> | 125.471   | <b>180.874</b> | 121.588   | <b>164.726</b> | 112.364   | <b>147.425</b> | 97.870    |

|                           |               |        |               |        |               |        |               |        |
|---------------------------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|
| Kosovo and Metohia region | <b>21.076</b> | 18.022 | <b>22.109</b> | 18.649 | <b>21.758</b> | 18.765 | <b>21.942</b> | 18.874 |
|---------------------------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|

**The long-term unemployed are prioritized in terms of their participation in ALMPs.**

The long-term unemployed persons are covered by the package of services for unskilled, low skilled and long-term unemployed persons which includes the following:

- 1) assessment of their employability;
- 2) development of a tailor-made and most fitting employment plan and measures for activation and employability enhancing;
- 3) inclusion into active job-search measures (self-efficiency training for skilled long-term unemployed persons and motivational and activation trainings for unskilled and low skilled persons);
- 4) inclusion into programmes of further education and trainings (programme of functional primary adult education, programme of acquisition of practical knowledge for unskilled persons, redundant workers and long-term unemployed persons, etc.), public works, etc.;
- 5) inclusion in the subsidized employment programme.

In 2018, 81.068 participated in ALMPs of which 45.093 women. Further, in the same year 4693 persons participated in further education and training programmes and another 96 under IPA 2013 supported measures, which was in total 4789 long-term unemployed persons.

| ACTIVE EMPLOYMENT POLICY MEASURES IN 2018  | Long-term unemployed |        |
|--|----------------------|--------|
|  | Total                | Women  |
| Job fair   | 38.887               | 21.353 |
| Job clubs  | 1.893                | 1.305  |
| Active job-search training   | 16.070               | 9.111  |
| Self-efficiency training   | 2.208                | 1.683  |
| Job loss caused stress management workshop   | 283                  | 213    |
| Educational services at Business centre  | 5.102                | 2.568  |
| Apprenticeship   | 1.729                | 1.217  |
| Acquisition of practical knowledge for unskilled persons, redundant workers and long-term unemployed | 569                  | 361    |
| Functional primary education   | 951                  | 590    |
| Specialist IT training   | 358                  | 99     |
| Training as the response to labour market demand   | 819                  | 561    |
| Trainings organised for as the response to the demand by employers                                   | 267                  | 223    |
| Subsidies for employment of harder-to-employ persons   | 2.680                | 1.467  |
| Public works   | 5.346                | 2.380  |
| Self-employment subsidies  | 2.429                | 1.196  |
| Subsidized wages for the persons with disability without working experience                          | 244                  | 113    |

|  |               |               |
|--|---------------|---------------|
| Compensation of the costs of support for persons with disability who get employed under special conditions | 23            | 13            |
| Compensation of the reasonable costs of work place accommodation for persons with disability               | 7             | 4             |
| Reimbursement of wage costs – Occupational assistance  | 16            | 9             |
| IPA 2013- supported training as response to the labour market demand                                       | 0             | 0             |
| IPA 2013-supported training organised for the unemployed as the response to employers' demand              | 96            | 66            |
| IPA 2013-supported self-employment subsidies   | 305           | 115           |
| IPA 2013-supported employment subsidies for harder-to-employed persons at newly created jobs               | 809           | 459           |
| <b>TOTAL NUMBER OF PERSONS covered by the ALPMs</b>  | <b>81.068</b> | <b>45.093</b> |

### Article 15§1\*

Please indicate progress in ensuring access to and inclusion of children with disabilities into mainstream facilities. Please indicate trends in this area, including number of children with disabilities included in mainstream facilities, the number attending special schools, the number attending school on a part time basis etc. In addition, please indicate the legislative basis for inclusion and remedies in place in cases of exclusion from education on the basis of disability.

### Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 15§1 of the Charter on the ground that it has not been established that the right of persons with disabilities to mainstream education and vocational training is effectively guaranteed.

Inclusive education is strategic commitment of the Republic of Serbia as enshrined in relevant international documents. In past decade, comprehensive education system reforms have been implemented with focus to enhanced education equity, quality, and efficiency. The key objective of recent policies is to improve access to good-quality pre-school and primary education with view to improving educational attainment of all students in general, in particular children from vulnerable groups and socially deprived environment.

Foundations of Education System Law guarantees good-quality education for every child, regardless of sex, race, national, religious and language affiliation, social and cultural extraction, property, age, physical and mental physique, disability, political affiliation or other personal characteristic. Under this Law it is particularly emphasized that persons with disability are entitled to education taking into account their educational needs in mainstream education system, mainstream education system with individual or group additional support or in a separate pre-school group or school. The implemented reform enabled inclusive education for thousands of children and young persons who

were outside of inclusive system. Primarily, there were positive developments in terms of adjustment of and inclusion of an overall legal framework governing education of children and students in need of support.

Better coverage by pre-school education, in particular of children from vulnerable population, is one of the priority goals of the Development of Education System Strategy 2020. Regarding pre-school education, on the basis of the data available on education statistics, the coverage of children has been continually on rise, including also in the reporting period (Picture 1). According to the data available with National Statistical Office, in the period 2017/18 212.719 children were included in pre-school education, which was an increase for 20.714 children in comparison with 2014/15.

While there is apparent continuous increase in the coverage for all age groups, in the school year 2017/18. 44.5% children who were below the age of six up to the schooling age were not included in pre-school education system.

According to the data available with the National Statistical Office, the number of students educated under a tailor-made plan of education (individual plan – IP) has significantly on rise, as is the number of persons who approach and contact inter-ministerial commission (Commission) in comparison with school year 2013/14. In 2013/14, of 560.099 students, 4538 were included in education on the basis of the IP-1 (0,81%), 2500 on the basis of IP-2 (0.45%), and 2852 (0.51%) students were the subject of the opinion passed by the Commission (0,51%). In school year 2017/18. Of 539.147 students, 8332 (1.54%) were included in education on the basis of IP-1, 5025 (0.93%) were included on the basis of IP-2, and 5416 (1.01%) were the subject of the opinion passed by the Commission.

The number of students included in education on the basis of the IPs in secondary schools has been on the increase on annual basis. According to the data available in the information management system, in school year 2018/19, of 252.108 secondary school students (grammar schools, secondary polytechnic schools of applied studies and art schools) 566 (0.22%), students were included in education on the basis of IP-1, 1154 on the basis of IP-2 (0.46%), and 113 were included in education on the basis of IP-3 (0.04%).

The number of children with disabilities at schools for children with disabilities has reduced from 5.348 (2013) to 4.719 (2018). These data were recorded in comparison to an overall student education, and continue to indicate to the decreasing numbers of students educated at schools/classes for disabled students. In particular, in school year 2010/11 1.09% of student population attended schools/classes for students with developmental disorders, while in school year 2018/19 there were 0.89% of such population in schools and classes for the disabled children.

The Foundations of Education System Law (RS/ 88/2017, 27/2018 – spec. Law, and 10/2019) under art. 3. Everyone shall have access to education. Nationals of Serbia shall have equal access to education. A person with developmental disorders and disability shall have access to education taking into account its educational needs as provided for under the education system, with the support of additional individual or group teaching and learning assistance or in a separate educational group or school, as provided for under this and special laws.

According to general principles of education enshrined in article, an education system shall ensure for all children, students and adults equality and accessibility of right to education based on social justice and equal opportunities principle without discrimination. Under art. 110 thereof the discrimination in education is prohibited:

Institutional discrimination of and discriminatory treatment towards a person or group of persons, their family members or persons who are closed to them whereby distinction is made or they are treated unequally, directly or indirectly, openly or covertly, or are excluded, limited or favoured on the basis of race, skin colour, ancestry, nationality, migrant status, or displaced person status, nationality or ethnical origin, language, religious or political opinion, sex, gender orientation, property, social and cultural extraction, birth, genetic characteristics, health condition, developmental disorder and disability, marital and family status, previous offence records, age, appearance, membership in trade union or other political organisation, and other real or imagined personal characteristics, including other basis as provided for under law governing prohibition of discrimination.

Special measures taken to achieve full equality, protection and well-being of a person, or group of persons in unequal situation shall not be regarded of as discrimination. “

The procedure that an institution is required to follow in case of discrimination is regulated under the Rulebook on the institutional procedure to be followed in the case of a suspect or established discriminatory treatment and offence against reputation, honour or dignity of a person (Official Gazette of RS 65/2018).

#### The ECSR request

The Committee asks for information in the next report on the measures taken to ensure effective remedies in cases of alleged discrimination in education and training on the ground of disability (including examples of relevant case law and its follow up).

Equality Commissioner: disability is one of personal characteristics included in the Prohibition of Discrimination Law as the personal characteristics on the basis of which the Commissioner receives almost a largest number of complaints over the year (in all the years of the reporting period it is at the first place as per the number of received complaints 2018-26.4%, 2017- 18%, 2016-12.9%) , except in 2015 when this personal characteristic was at the third place as per the number of complaints (2015-113%). Also, the Commissioner instituted two strategic civil lawsuits for the discrimination based on disability.

#### The ECSR request

The Committee refers to the conclusions of the UN Committee on the Rights of Persons with Disabilities of 23 May 2016, which notes that many children with disabilities are placed in institutions, particularly those with mental disabilities (who account for about 80% of all children living in institutions), and do not therefore have equal access to education. The

Committee asks for the next report to outline the measures taken to limit institutionalisation and give the relevant figures.

Safeguards for and advance of the right of the child with disabilities is highly prioritized matter in Serbia. Therefore, the Government of Serbia (GoS) recognizes the importance of care for this category of children and how essential it is to develop services of support for children, family and parenthood as a deterrent for their placement into institutions which is implemented as a range of policies, primarily in health care, education and social care systems.

Under article 41 of the Social Welfare Law, **Children with disabilities** shall be the beneficiaries of social care services if they have developmental disabilities (physical, intellectual, mental, sensory, speech-related, language-related, social, emotional, multiple) and their needs for care and financial security are beyond the what their family can offer.

Regarding child care, MoLEVSA has been implementing the policy ensuring support for parents to fulfil their responsibilities towards children, which is primarily oriented to prevention of separation of the child from family through the provision of adequate financial support and of services that are to strengthen the capacities of family.

Residential care services are provided to children and young persons whose needs cannot be addressed in their biological, kinship or foster family, or by community-based services, on the basis of the decision of guardian authority or court, or centre for social work, until the child's return to its biological family, or its placement in kinship or foster family, its adoption or becoming self-sufficient. A child under the age of three may not be placed in residential care, except in cases provided for under social care law.

The number of children placed in foster care across Serbia is significantly higher (90%) than the number of children placed in residential care (10%), but lower in case of children with disabilities. Therefore, special emphasis is placed on development of specialized foster care with intensive and additional support. The efforts have been intensified towards the development of service of casual foster care targeted at children with developmental disorders and health conditions who live in biological or foster family and are placed in another family for a shorter period for the purpose of respite and maintenance of the capacities of foster or biological family to continue to take care of the child and to prevent crisis situation that may lead to the separation of the child from family and transition to residential care.

In Serbia, there are 6 foster care and adoption centres operational, and the seventh is being established (in AP Vojvodina). Their task is to provide support to foster families, organize trainings for foster parents to provide the service. The centres report on the foster parents' work and functioning of families which provide foster care service. Today, Serbia is among the countries with the lowest level of placement of children in residential care in Europe.



Regional social welfare institute, in partnership with the UNICEF, and in the period from February 2015 to 2017 implemented the project *Development of kinship foster care, foster care as shared care for children with developmental disorders and cultural competence of social work practice*. it was a three-component project, with the following objectives:

- a) Support to better implementation and further development of kinship foster care in Serbia
- b) Support to foster care system and foster care development as a shared care for children with disabilities
- c) Contribution to development of culturally competent social work practice.

The working group that was tasked to develop guidelines for kinship foster care, on the basis of the results of consultative process and participation of kins, guardians and social care participants, developed the **Guidelines for Kinship Foster Care** which in 2016 were published and distributed to all centres for social work and centres for foster care and adoption across Serbia. The objective of the guidelines was to strengthen professional competences of the social welfare practitioners, information and education of parents, children, information and education of foster care service providers. The authors of the guidelines developed and organised one-day instructions, trainings for the implementation of the guidelines for kinship foster care. In the period from May to June 2016, there were 14 one-day instructions and trained in total 260 workers from: 5 centres for foster care and adoption, and 104 centres for social work in Serbia. Also, in 2016 and at the wrapping up conference in April 2017, the promotional and informational activities for practitioners and general public were carried out.

Piloting of casual foster care service lasted from April 2015 to April 2016 of which 24 children benefited (in Novi Sad -11, Belgrade-1, Kragujevac-5 and Nis-6). On the basis of the piloting and provision of expert support the Guidelines for Causal Foster Care were developed in April 2016 and published in 500 copies and distributed to centres for social work and centres for foster care and adoption across Serbia. 14 one-day instructions were organized for the implementation of the guidelines covering 264 practitioners from 107 centres for social work and 5 centres for foster care and adoption. The representatives of the Regional Social Welfare Institute organized 40 mentorship visits to centres for social work and centres for foster care and adoption in which the service was piloted and in line with the plan of promotion and in other local areas for all the centres for social work and centres for foster care and adoption the representatives of which did not take part in the earlier instructions on how to implement guidelines. The Guidelines have through organisation of round tables in 2016 and at the wrapping up conference in 2017, promoted to professionals and general public.

Under its remit, the Social Welfare Institutes at national and regional levels, ensure continuous peer support to the institutions for children and young persons with disabilities, institutions for mentally handicapped persons and to the institutions for adults with developmental disorders, through their peer visits and organisation of peer meetings with the aim to take stock of the current situation in the institutions, insight into the quality of life of the residents in them, peer work, organisation of work, human resources and options for further development and planning in the process of conversion.

Numerous activities have been carried out to develop community-based services such as day cares, supported living, house help, and personal assistants, while the placement in residential care is the service of last resort in cases when less restrictive support cannot be provided.

To enable balanced development of services across Serbia, in 2018 the state rolled out **mechanism of earmarked transfers** enabling the transfer of allocations from national to local level to underdeveloped municipalities without sufficient available funds for self-financing of the rolling out and development of social services. The allocations are from the national budget and in the first year of their rolling out, the total allocations were in the amount of RSD 400 million, and in 2017 and 2018 there were increased to RSD 700 million respectively. In 2019, the amount was RSD 756 million.

Through the continually implemented process of **the licensing** of social **service providers**, the number of the issued licences increases on year to year bases (from 54 licences issued in 2014 to over 400 issued by the end of 2018). There were 512 issued licences for social services providers by the end of third quarter of 2019. Our goal is to have the residential care service used for the beneficiaries as rarely as possible and only in the case when the service is necessary, and to enable in every local community to extend the network of local services offering support to beneficiaries and families for self-sufficient living.

The deinstitutionalisation process in Serbia is based on the respect of human rights and provision of good-quality care for beneficiaries regardless of them being elderly, children or persons with disability. The principle of the least restrictive environment for a beneficiary and its as long as possible remaining within the family is enshrined in the Social Welfare Law itself. *Under the Rulebook on organisation, rules and standards of work for centres for social work*, there is an obligation for guardianship authority to **regularly conduct examinations/reviews** – the procedure in which reassessment of the needs, strengths and risks is conducted with view to adjust the services and measures to new circumstances and functioning of the beneficiary. The re-examination /review of the placement is conducted once a year, on the occasion of which the case manager in cooperation with practitioners in the residential care and the beneficiary reviews the options for the beneficiary to return to family or to set up alternative arrangement under which the beneficiary will leave the residential care.

Social care system has developed the measures of support for children and parenthood which are **universal, such as the right to paid one-year parental leave and leave from work for child care**, to ensure timely, adequate care and stimulation for the child and also to establish relationship of mutual bond and commitment between parent and child. If the child has disabilities, the parent is entitled to **leave from work to care for the child as far as up to its fifth birthday**, with the wage compensation. If the parents are unemployed, under employment regulations, if they are recipient of unemployment benefit, they will continue to receive it over the period of maternity leave, child care leave and special child care leave.

**Provision of minimum financial security for family**, as one of the requirements of the advancement of the quality of child care, welfare and full development of the child, in particular in younger age, and in particular of the children living in unfavourable social and economic circumstances, is implemented under the social care system in the form of cash social benefits, parental allowance, child allowance, and a range of other measures and benefits as provided for under the Social Welfare Law and Financial Support for Families with Children Law.

**Caregiver's benefit** is administered to a person who due to its corporal or physical disability, intellectual handicap or changed health situation requires assistance and care of another person to fulfil elementary living necessities (art. 92 of the Social Welfare Law).

**Special cash benefit** for parents without entitlement to pension, but who for minimum 15 years have cared for the child with the severe disability, shall be available to the parents upon statutory age for pension, as a lifetime monthly allowance the amount of which matches the minimum pension. If the parent becomes eligible to pension after becoming eligible to special cash benefit, such a parent is entitled to choose between the two.

Under the Social Welfare Law **assistance for training for work** consists of the support for education and training for work that children and young person with disabilities are entitled to as well as adults with disabilities, the all of who, taking into account their physical and psychological characteristics and age may become trained for certain jobs, **provided that this entitlement is not accessible on any other legal grounds**. The assessment of the need for education support is conducted as provided for under the regulations of primary education system, and the assessment of the capacities for training is conducted as provided for under the regulations on occupational rehabilitation and employment of persons with disabilities.

Under *the Financial Support for Families with Children Law*, families with poorer financial status which have a child with disabilities are entitled to **child allowance** under more favourable requirements and in a higher amount.

To have the process of conversion of institutions ongoing, two new services have developed for children at risk from separation, and all taking into account the exercising of the right of the child to receive care from its parents and then if that is not possible from others. The services are: **family assistant**, that under the revised Social Welfare Law will be defined as an social and educational services of regional type, and **casual foster care** that has already been enrolled into the system under the existing provisions of the Family Law and Social Welfare Law. The revision of the Social Welfare Law will enable the rolling out of the *Centres for Children, Youth and Family* that will provide also the service of family assistance. The service of family assistance is aimed at the provision of support to a family dealing with different and intensive hardships in functioning, and all with the aim to prevent separation of the child from its family. The service has shown good results in particular in cases of the Roma families. The **Social Welfare Law is expected to be revised in 2020**.

In addition to the revised Social Welfare Law, *the Draft of the Protection of the Rights of the Residential Care Beneficiaries with Mental Disabilities Law* has been prepared, which has been the subject of the public debate, and currently the final version is in preparation, which after having been complete, will follow further legislative procedure. The objective of the law is to ensure and advance exercising of the rights and protection of the interests of the persons with mental disability in the system of social care.

The *Draft of the Deinstitutionalisation and Community-Based Services Development Strategy* is also ongoing, which is expected to be adopted in the course of 2020.

Over the recent years, many legal areas have been reformed, and the attempts have been made to align *the laws* with international standards enshrined in the UN Convention on the Right of the Child and advance the situation of children (about 100 different laws from different areas regulate the field of the right of the child). Bringing national legislation into conformity with the Convention is difficult because of the absence of the fundamental Law on the Right of the Child that would enable at national level to set up the standards and principles on the basis of which all sectoral laws would be aligned – in the field of education, health care, social care, culture etc. Therefore, MoLEVSA has developed the *Draft of the Right of the Child Law and of the Children's Ombudsman Law* the adoption of which will not only enable the alignment of the applicable legislation regulating the right of the child but also establishment of a new independent authority and clear mechanism for promotion, advancement and protection of the right of the child through the creation of a separate institution – *Children's Ombudsman*. The law will provide for the scope of the right of the child, arrangements for the advancement and promotion of the right of the child, responsibilities of the public authorities to comply with the right of the child, coordination and control of the compliance of public authorities with the right of the child when carrying out their activities.

Now, the focus of social welfare reforms is changing even more extensively **from restrictive to support measures for the benefit of biological family**. The development of services of support for children and family, in particular the ones with complex needs and issues, is among the priorities of social welfare. The development and pilotage of **models of diverse interventions adjusted for the situation in Serbia** (in cooperation with UNICEF) is very important as it rests upon the capacities existing resources for the development of inter-ministerial teams for early interventions at local level, and simultaneously develops common tools for timely and adequate identification of children's needs at an early age and the needs of their families for the taking of early intervention and adds to the development of field-specific knowledge and competences of parents and practitioners.

Early interventions are inter-sectoral, transdisciplinary and integrated measures of the provision of for the development of the child of younger age with developmental disabilities, atypical behaviour, social and emotional difficulties, and to their families, or when there is high likelihood that disorder will manifest itself at a pre-school moment due to malnourishment, a chronic disease or other biological or environmental factors. Early intervention services are targeted at children from their birth to three years of age, and are accessible for the children up to their sixth birthday i.e. until they become enrolled in primary school.

Early intervention is provided by the transdisciplinary inter-sectoral „Team for Early Intervention “(TEI) the members of which are the practitioners from three systems (health, education and social care) which is based in one of these three systems, as the most adequate solution. The TEI provides support to the family through home visits by the primary service provider (PSP) and through the support provided by nurses/educators, when the child is a pre-school goer.

In the period 2016–2017, London-based Open Society Foundation and the Belgrade UNICEF Office supported the analysis of the existing services of early intervention in Serbia, including of the opportunities and challenges for the development of the national early intervention system. By piloting at seven locations, institutional capacities for the provision of better quality early intervention services will be enhanced and developed, their feasibility and potential for upscaling in will documented.

The activities carried out in 2017/18: In 2017, the situation analysis of early intervention services in Serbia was conducted (<https://www.unicef.org/serbia/media/9436/file>), indicating to the room for improvement on the basis of which **early intervention models for Serbia** were recommended, on the basis of routine approach, the efficiency and effectiveness of which is scientifically proven. The model is about the setting up of a trans-disciplinarian team dealing with the child and family, the members of which are practitioners coming from the three systems (health, social care and pre-school education) to offer support to parents/family as the child’s most natural and primary environment. Primary health care facility - pediatric service and development counselling centre is recongized as a lead provider of early intervention measures, since it has the most extensive outreach with early age children. Regarding intensive inter-sectoral cooperation, in additon to the primary health care facility, the pre-school institution and centre for social work have important role as part of transdisciplinary team and as the participants in the provision of support for child and family.

Current activities: In 2019, two essential trainings for practitioners were organised – on the basic components of the Model oand for the assessment of the functionality of child and family. Currently the Model has been piloted in Leskovac and Belgrade municipality Rakovica, which are identified as best practice examples. Also, at these to locations, a special methodology of model monitoring and evaluation is piloted, to identify the need for additional adjustments, institutionalistion and as a preparation for upscaling. A more flexible model of early interventions has been piloted at further five locations (Kragujevac, Nis, Sremska Mitrovica and Belgrade municipalities Cukarica and Novi Beograd) so that the team may be extended with the practitoners who are sensibilized to early interventions, and thus facilitating upscaling of the Model after the completion of its piloting.

Planned activities: Four trainings are envisaged (application of screening instrument – for pediatricians, and three trainings for team practitioners – development of individual support plan, for inster-sectoral work and transdisciplinarian approach, strategies of family support), by consultants; mentorship support for institutional application, application of new protocols and

procedures, documenting processes and monitoring of progress of home practitioners, funding and sustainability of the Mmodel, in cooperation with the ministries and local partners; revision of the EI model, on the basis of evaluation, and preparation for upscaling.

### **STATISTICAL ANNEX:**

**In the Tables below education status of children and young persons with developmental disorders in residential care is given:**

| <b>Education status of children and young persons as per school as of 31 December 2016</b> |                 |                      |              |
|--|-----------------|----------------------|--------------|
| <b>School type</b>   | <b>Children</b> | <b>Young persons</b> | <b>TOTAL</b> |
| of pre-school age but not attending preschool institution                                  | 25              | 0                    | 25           |
| attending pre-school institution   | 0               | 0                    | 0            |
| of primary school age but not attending primary school institution                         | 126             | 114                  | 240          |
| mainstream primary school  | 2               | 0                    | 2            |
| special primary school   | 78              | 29                   | 107          |
| mainstream secondary school  | 0               | 0                    | 0            |
| special secondary school   | 6               | 41                   | 47           |
| primary adult education school   | 0               | 41                   | 41           |
| students – schools of higher education   | 0               | 0                    | 0            |
| drop outs - incapacitated  | 33              | 85                   | 118          |
| completed schooling  | 0               | 40                   | 40           |
| <b>TOTAL</b>   | <b>270</b>      | <b>350</b>           | <b>620</b>   |

| <b>Education status of children and young persons according to school type as of 31 December 2017</b> |                 |                      |              |
|---|-----------------|----------------------|--------------|
| <b>School type</b>  | <b>Children</b> | <b>Young persons</b> | <b>TOTAL</b> |
| of pre-school age but not attending preschool institution   | 24              | 0                    | 24           |
| attending pre-school institution  | 2               | 0                    | 2            |
| of primary school age but not attending primary school institution                                    | 102             | 0                    | 102          |
| mainstream primary school   | 2               | 0                    | 2            |
| special primary school  | 79              | 31                   | 110          |
| mainstream secondary school   | 0               | 5                    | 5            |
| special secondary school  | 1               | 36                   | 37           |
| primary adult education school  | 1               | 44                   | 45           |
| students – schools of higher education  | 0               | 0                    | 0            |
| drop outs - incapacitated   | 10              | 156                  | 166          |
| completed schooling   | 3               | 41                   | 44           |

|              |     |     |     |
|--------------|-----|-----|-----|
| <b>TOTAL</b> | 224 | 313 | 537 |
|--------------|-----|-----|-----|

| <b>Education status of children and young persons according to school type as of 31 December 2018</b> |              |                  |                   |
|---|--------------|------------------|-------------------|
| School type   | Childre<br>n | Young<br>persons | <b>TOTA<br/>L</b> |
| of pre-school age but not attending preschool institution   | 82           | 0                | 82                |
| attending pre-school institution  | 1            | 0                | 1                 |
| of primary school age but not attending primary school institution                                    | 25           | 0                | 25                |
| mainstream primary school   | 2            | 0                | 2                 |
| special primary school  | 61           | 21               | 82                |
| mainstream secondary school   | 0            | 0                | 0                 |
| special secondary school  | 5            | 32               | 37                |
| primary adult education school  | 0            | 35               | 35                |
| students – schools of higher education  | 0            | 0                | 0                 |
| drop outs - incapacitated   | 32           | 142              | 174               |
| completed schooling   | 6            | 88               | 94                |
| <b>TOTAL</b>  | <b>214</b>   | <b>318</b>       | <b>532</b>        |

*Source: National Social Welfare Institute (based on the reports of the residential care institutions for children with disabilities/developmental disorders)*

### **Article 15§2\***

Please provide information on progress made in ensuring persons with disabilities have access to employment on the open labour market, including recent non-discrimination measures and measures to promote employment. Please include figures on the number of persons with disabilities in employment and the number of unemployed.

Please provide up-dated information concerning obligations on the employer to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment of persons with disabilities.

Under the Occupational Rehabilitation and Employment of Persons with Disability Law, RS 36/09 and 32/13) any undertaking with minimum 20 employees is bound by the obligation to employ. An undertaking with 20 to 49 employees shall employ one person with disability. An undertaking with 50 and more employees shall employ minimum two persons with disability, and with the further 50 the undertaking shall employ one persons with disability. An undertaking shall be regarded of as any domestic or foreign legal or natural person employing one or more persons, or the Republic of Serbia

for staff working at public authorities, an autonomous province for staff working at provincial authorities and a local government unit for staff working in local government authorities. A newly established undertaking shall be free from the obligation to employ persons with disability for 24 months from the date of establishment.

In 2017, on average, about 8.216 undertakings reported the obligation of employment of persons with disability, employing on average 19.016 PwD.

In 2018, on average about 8.801 undertakings reported the obligation, employing on average about 21.218 persons with disabilities.

*These data show that the number of undertakings with the obligation to employ the disabled and which have fulfilled the obligation is on the rise.*

An employer who fails to employ persons with disability shall **make payment** in the amount of 50% of the average national level salary as per an employee as published in the most recent bulletin of the national authority in charge of statistics for every person with disability that it had failed to employ. By making the payment the undertaking shall fulfil the legal obligation to employ. In 2017, on the basis of the obligation to employ persons with disability undertakings made payment into the Budgetary Fund for the benefit of the employment obligation on average for about 8.890 persons with disability.

The undertaking which, under the public procurement procedure or when conducting other procurement, executes financial obligations specified in a contract on business and technical cooperation with an enterprise for occupational rehabilitation and employment of persons with disabilities, as well as in a contract on purchase of the products or services of such an undertaking, except for the obligations that have arisen from the implementation of a wholesale contract – in the amount of 20 average wages at the moment of the closure of the contract, shall be exempt from the obligation to employ one person with disability in the next 12 months from the date of execution of the obligation. The number of such contract in 2017 on average was 267, and in 2018 – 352, which is *clear increase in the number of undertakings executing the obligation to employ the disabled in such a manner.*

The number of unemployed persons with disability registered with the PES is given in the Table under Article 1§1\*. Unemployed persons with an established status of a person with disability may opt to participate in active employment policy measures and programmes, taking into account their characteristics and motivation and labour market demand.

**The package of services for persons with disability is about** recruitment and inclusion of persons with disability in active employment policy measures under general conditions and adjusted programmes, taking into account the needs of persons with disability, assessed professional capacities, working capacity, and identified labour market demand, which consists of:

- 1) assessment of professional capacities, i.e. employability;
- 2) development of an individual employment plan and measures most suitable for activation and enhancement of employability of a person with disability;
- 3) recruitment (job-matching) and participation in active employment policy measures that add to their employability and employment.



PwD may participate in all the ALMPs. Also, there are special ALMPS which are implemented particularly for persons with disability who are hired under special conditions, in particular: work place accommodation, provision of professional support to a newly employed person with disability.

The impact of ALMPs on employment is better in case of PwD, in comparison to the total number of persons who are registered as unemployed, and is about 45%.

| <b>2015</b>                          |       | <b>2016</b>                          |       | <b>2017</b>                          |       | <b>2018</b>                          |       |
|--------------------------------------|-------|--------------------------------------|-------|--------------------------------------|-------|--------------------------------------|-------|
| Number of PwD participating in ALMPs | Women | Number of PwD participating in ALMPs | Women | Number of PwD participating in ALMPs | Women | Number of PwD participating in ALMPs | Women |
| 7.620                                | 2.997 | 8.219                                | 3.490 | 8.621                                | 3.670 | 10.034                               | 4.499 |

Also, employed persons with disability may participate in the programmes of occupational rehabilitation implemented in enterprises for occupational rehabilitation and employment of persons with disability with an aim to develop knowledge and skills of relevance for the maintaining employment.

## Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 15§2 of the Charter on the following grounds:

- it has not been established that the legal obligation to provide reasonable accommodation is respected;
- persons with disabilities are not guaranteed effective access to the open labour market.

Right to work is a right enabling any individual to enhance own capacities and develop into a creative person. Right to work is guaranteed under the Constitution of Republic of Serbia and is applicable also to persons with disability.

Occupational rehabilitation and occupational training for persons with disability are essential for improvement of the living conditions for persons with disability.

A person with disability, under this Law, is entitled to the following:

- Assessment of status and working capacity;
- Promotion of employment, working and social inclusion and affirmation of equal opportunities at labour market;
- Measures and activities of occupational rehabilitation;
- Employment under general conditions;

- Employment under special conditions;
- Active employment policy measures;
- Employment at specially organized forms of employment and hiring of persons with disability.

Occupational rehabilitation of persons with disability is about:

- 1) Career guidance, professional information, counselling and individual employment plan;
- 2) Occupational training, further training, retraining and programmes for acquisition, maintenance and advancement of occupational and occupational and social skills and capacities;
- 3) Individual and group, general and adjusted programmes for improved occupational and social integration;
- 4) Development of motivation, technical assistance, professional support, monitoring and evaluation of the results of occupational rehabilitation;
- 5) Individual counselling, including assistance to accept own disability taking into account opportunities for work and participation in specific occupational rehabilitation measures;
- 6) Education and training workshops for the undertaking, persons for occupational training and rehabilitation of persons with disability and other persons;
- 7) Proposals and training on the implementation of adequate technical solutions aimed at the enhancement of the efficiency of persons with disability in learning and work, including support services;

The costs of professional rehabilitation of persons with disability with decreased working capacity due to an occupational injury or disease, which took place after this Law has taken effect, shall be covered by the undertaking employing the person with disability at the time of the injury or disease. The costs of professional rehabilitation of other persons with disability shall be covered by an organisation in charge of employment activities.

An employed person with disability, in the course of its occupational rehabilitation, shall be entitled to leave from work at an undertaking where the person in question is employed.

Persons with disabilities are employed under general or special conditions.

The employment of a person with disability under general conditions is employment with an undertaking without the accommodation of assignments, work place or tasks comprising the job.

The employment of a person with disability under special conditions is employment with an undertaking with the accommodation of assignments, work place or tasks comprising the job.

The accommodation is adjustment of working processes or tasks.

The accommodation is technical and technological equipping of a workplace, provision of working equipment and space and equipment – taking into account possibilities and needs of the person with disability.

The Law introduces a quota system and imposes the obligation to employ persons with disability for all the undertaking employing 20 and more workers. The obligation is in effect as of 25 May 2010.

An undertaking employing 20 to 49 employees shall employ one person with disability.

An undertaking employing 50 to 100 employees shall employ 2 persons with disability, and an undertaking employing more than 100 employees shall employ one person with disability as per every further 50 employees.

Under the Law, simulative measures are envisaged for undertaking employing persons with disability:

- An undertaking employing persons with disability under special conditions is eligible for reimbursement of reasonable cost of accommodation of workplaces of persons with disability.
- An undertaking employing for indefinite period a person with disability without working experience is eligible to wage subsidy of 75% of total wage costs including compulsory social insurance, but not below minimum wage fixed for the person in question under labour law for the period of 12 months.

Active employment measures for persons with disabilities are:

- 1) Reimbursement of the costs of accommodation;
- 2) Subsidized wages for persons with disability without work experience;
- 3) Self-employment support;
- 4) Occupational rehabilitation measures and activities.

**Article 15§3\***

Please describe the measures taken (and progress made) to ensure that persons with disabilities have the right to live independently in the community, such as the existence of available independent living schemes, sheltered housing for persons with disabilities, in-home, residential and other community support services, including personal assistance.

Under the Social Welfare Law there are the following community-based services for persons with disabilities and their families:

- *services of assessment and planning*: assessment of situation, needs, strengths and risks of beneficiaries and other relevant persons in the beneficiary's environment; development of an individual or family plan of service provision and legal protection measures;
- *daily community-based services*: day-care; house help; child's personal assistant and other services supporting beneficiary's family stay and in close environment. These services are implemented at local level offered with the primary aim to ensure support to the beneficiary to exercise their right and fulfil their need in order to reach maximum independence and as a result live better quality life and become better integrated into society;
- *services of support for independent living*: supported living; personal assistance; training for independent living and other types of support essential for active participation of a beneficiary in a community;
- *counselling, therapeutic, social and educational services*: intensive services for families in crisis situation; counselling and training for parents, guardians and adoptive parents; maintenance of family relations and family reunion; counselling and support in cases of violence; family therapy; mediation; hotlines; activation and other counselling and education services and activities;
- *placement services*: foster care, kinship foster care for children, adults, and elderly persons; placement in shelter, respite placement and other forms of placement.

The MoLEVSA, Family Care and Social Protection Department has been carrying out activities at three levels with the aim to improve living conditions for persons with disability:

- support to local governments to achieve sustainability for local-level of social care services for persons with disability and to develop them;
- improvement of the living conditions and treatment for beneficiaries at residential care institutions;
- development and improvement of professional resources.

Through the continually implemented process of **the licensing** of social **service providers**, the number of the issued licences increases on year to year bases (from 54 licences issued in 2014 to over 400 issued by the end of 2018). There were 512 issued licences for social services providers by the end of third quarter of 2019. Our goal is to have the residential care service used for the beneficiaries as rarely as possible and only in the case when the service is necessary, and to enable in every local community to extend the network of local services offering support to beneficiaries and families for self-sufficient living.

The deinstitutionalisation process in Serbia is based on the respect of human rights and provision of good-quality care for beneficiaries regardless of them being elderly, children or persons with

disability. The principle of the least restrictive environment for a beneficiary and its as long as possible remaining within the family is enshrined in the Social Welfare Law itself. *Under the Rulebook on organisation, rules and standards of work for centres for social work*, there is an obligation for guardianship authority to **regularly conduct examinations/reviews** – the procedure in which reassessment of the needs, strengths and risks is conducted with view to adjust the services and measures to new circumstances and functioning of the beneficiary. The re-examination /review of the placement is conducted once a year, on the occasion of which the case manager in cooperation with practitioners in the residential care and the beneficiary reviews the options for the beneficiary to return to family or to set up alternative arrangement under which the beneficiary will leave the residential care.

Data-base of all the issued licences is available at the web site of the MoLEVSA.

Number of issued licences for services offered to persons with disability from 2015 to 2018:

| Service   | 2015 | 2016 | 2017 | 2018 |
|---|------|------|------|------|
| Day care for children and young persons with disabilities | 13   | 9    | 11   | 24   |
| Child's personal assistant                                | 2    | 2    | 4    | 6    |
| House help  | 1    | 0    | 1    | 1    |
| Personal assistant (for adults)                           | 4    | 4    | 3    | 1    |
| Supported living  | 2    | 2    | 0    | 1    |
| Total   | 22   | 17   | 19   | 33   |

In Serbia, social welfare service providers may be private, public (residential care institutions) and civil society organisations.

To ensure quality of service provision, the ministry in charge of social protection imposed the obligation of attendance **accredited training programmes** for social welfare practitioners. The accreditation system is grounded in the Social Welfare Law and is closely connected with the process of licensing of social welfare practitioners. Accreditation process has become essential link the establishment of **quality system**. Accreditation of the training programmes, i.e. programmes of provision of services, is „the procedure in which it is evaluated if a training programme or service provision programme for practitioners fulfils accreditation standards “(Article 191 of the Social Welfare Law). Accreditation of training programmes for social welfare practitioners is conducted by the National Social Welfare Institute, through the Accreditation Committee.

The data on accredited programmes are available to all the interested parties at web page of the National Social Welfare Institute at <http://www.zavodsz.gov.rs>

To enable balanced development of services across Serbia, in 2018 the state rolled out **mechanism of earmarked transfers** enabling the transfer of allocations from national to local level to underdeveloped municipalities without sufficient available funds for self-financing of the rolling out and development of social services. The allocations are from the national budget and in the first year of their rolling out (**2016**), the total allocations were in the amount of RSD 400 million, and in 2017 and 2018 there were increased to RSD 700 million respectively. In 2019, the amount was RSD 756 million.

It may be said that Serbia appropriates significant budget allocations for the development of social welfare system, thus continuously improving the quality of the existing services, and also enabling the development of new ones at local level, at local government units. These are systemic mechanisms established to ensure for social welfare beneficiaries maximum stay in family, and with the support of local community with the developed social welfare services essential for beneficiary's remaining in family (services such as day care, personal assistant or personal companion, respite, house help, supported living for young persons who are becoming self-sufficient, counselling, therapy, social and education services, shelters for victims of violence, etc.).

Thanks to the mechanism of earmarked transfers, local government units **inclusive of 2018** managed to develop services **for more than 20.000 beneficiaries**. In 2018, 109 agreements on earmarked transfers were closed related to social welfare services falling under the remit of local governments, as provided for under the Regulation on Earmarked Transfers. For such purposes in 2018 RSD 700 million (cca. EUR 6 millions) were allocated, as in 2017. The data for 2018 show that 21.351 beneficiaries were covered by earmarked transfers, of which 8% were children (1802 children), 92 services for children were rolled out, mostly day care for children, personal companion, house help and counselling and therapy.

Under the Budget of the Republic of Serbia Law for 2019, RSD 756.000.000, (cca EUR 6.5 millions) are earmarked transfers for local government units.

Also, for support to associations and local communities (the second systemic mechanism of support to development of services at local level) in 2019 the allocation amounted to RSD 567 million (cca. EUR 4 millions). 144 agreements were signed with local government units.

Also, from the budgetary fund finances for the programme of protection and promotion of the situation of persons with disability are appropriated, in part through constantly open competition for the promotion of the position of persons with disabilities and in part through competitions targeting specific areas of social welfare of persons with disability). The allocations in 2019 amount to RSD 488.886.000,00 (cca. 4 millions). The state improves social situation of persons with disability also with the allocations for occupational rehabilitation and employment of persons with disability, which in 2019 amounted to RSD 700.000.000,00 (cca. 6 millions).

The referred to data show that Serbia from national budget, for the purpose of the development of social welfare and promoting of the situation of vulnerable social groups, allocates significant monies, which in 2019 amounted more than RSD 2. 5 billion, or EUR 22 million.

**Investments** into social welfare institutions in 2018 (for the improvement of quality of living of residential care beneficiaries) amounted to cca. EUR 3.5 million.

The development of the Social Welfare System Development Strategy is ongoing as well of the Deinstitutionalisation and Community-Based Services Development Strategy which will contribute to establishment of further strands of development of social welfare and expansion of the existing network of community-based services and balanced development of all the parts of Serbia in this field. The adoption of these two strategies is envisaged also under the Draft of the Action Plan for Chapter 19 in the process of accession to the EU.

*The Rulebook on requirements and standard of the provision of social welfare services defines the service of **supported living** targeted at a number of beneficiary groups (persons with disabilities, children who leave social welfare system – termination of their residential or foster care, persons who are becoming self-sufficient but cannot live in biological families, persons treated from the diseases of addiction, victims of human trafficking, etc.). Currently, in Serbia, there are 9 licensed supported living service providers of which five of them are for PwD. According to the data available with National Social Welfare Institute (compiled on the basis of the reports submitted by social work centres) 50 users (children from 15 and 17 years of age – 4, 18-25 -13, adults 26-64 - 30, older beneficiaries who are 65 + – 3). Disaggregated by sex: 13 men and 37 women.*

Supported living is a service that is long-term accessible to person with physical, intellectual or mental disabilities, upon 15th birthday.

**House help** is accessible to children, adults and older persons whose physical and psychological capacities are limited due to which they are not able to live independently at their homes without regular assistance to perform daily essential activities, care and surveillance, with family care not sufficient or not available (statistical data given in Annex).

**Child personal companion** is available to a child with disability or developmental disorders, who needs additional support to fulfil essential needs in everyday living in the field of mobility, maintenance of personal hygiene, feeding, dressing and communication with others provided that it is attending education institution i.e. school, until the completion of regular schooling, including completion of secondary school.

**Personal assistance services** are available to adult persons with disabilities with the assessed 1st or 2nd level of support, who receive caregiver's benefit, have capacities for independent decision-making, have a job or are participate in the work of different associations of citizens, sports associations, political parties and other forms of social engagements, i.e. attend mainstream or individual education programme.

In addition to the provision of services to persons with disability, the state seeks also to provide help with adequate financial support. In particular, under the Social Welfare Law a person with corporal or sensory impairment, intellectual handicap or changes in health situation in need of help and assistance of another person to satisfy essential living needs is entitled to caregiver's benefit. The need for caregiver's assistance is determined on the basis of the regulations on pension and disability insurance. The amount is adjusted to consumer price index in effect in previous six months, on the basis of statistical data, two times a year, on 1 April and 1 October. Also, the entitlement to increased caregiver's benefit is available to a beneficiary of the caregiver's benefit with the established corporal impairment or permanent organic impairment of neurological or psychical form of 100% on one grounds or more percent on minimum two grounds. Caregiver's benefit and increased caregiver's benefit are **not means tested**.

Under the Social Welfare Law, **vocational training assistance** is support for education and training available for children and adults with disabilities who taking into account their mental and physical capacities and age, may become trained for specific work when the entitlement is inaccessible on

any other grounds. The assessment of the need for additional support for education is conducted under the regulations on primary education, and the termination of eligibility is conducted under the regulations on occupational rehabilitation and employment of persons with disability.

### STATISTICAL ANNEX:

*Source: National Social Welfare Institute*

| <b>Number of beneficiaries who in 2015 were referred to community-based day care</b> |                          |              |               |                |              |
|--|--------------------------|--------------|---------------|----------------|--------------|
| <b>Type of service</b>   | <b>Beneficiary's age</b> |              |               |                | <b>TOTAL</b> |
|  | <b>Children</b>          | <b>Youth</b> | <b>Adults</b> | <b>Elderly</b> |              |
| Day care for children and young persons with disabilities                            | 552                      | 475          | 0             | 0              | 1.027        |
| Day care for children and young persons with physical disabilities                   | 32                       | 19           | 0             | 0              | 51           |
| Day care for children and young persons with behavioural issues                      | 144                      | 60           | 0             | 0              | 204          |
| Day care for adults with disabilities  | 0                        | 0            | 401           | 1              | 402          |
| Day care for elderly   | 0                        | 0            | 0             | 1511           | 1.511        |
| House help for children and young persons with disabilities                          | 180                      | 50           | 0             | 0              | 230          |
| House help for elderly and adults  | 0                        | 0            | 1380          | 9018           | 10.398       |
| Drop in centre for street children   | 55                       | 0            | 0             | 0              | 55           |
| Drop in centre for adults and elderly  | 0                        | 0            | 7             | 0              | 7            |
| Child's personal companion   | 460                      | 0            | 0             | 0              | 460          |
| Other services supporting remaining in the family and in close environment           | 154                      | 25           | 227           | 632            | 1.038        |

| <b>Number of beneficiaries who in 2015 were referred to independent living support</b> |                           |               |                |              |
|--|---------------------------|---------------|----------------|--------------|
| <b>Type of service</b>   | <b>Beneficiary's age</b>  |               |                | <b>TOTAL</b> |
|  | <b>Children and Youth</b> | <b>Adults</b> | <b>Elderly</b> |              |
| Supported living for young persons becoming self-reliant                               | 54                        | 0             | 0              | 54           |
| Supported living for persons with disability   | 3                         | 5             | 0              | 8            |
| Personal assistant   | 92                        | 61            | 29             | 182          |



|  |     |     |     |     |
|--|-----|-----|-----|-----|
| Other forms of support essential for active participation in society | 210 | 208 | 87  | 505 |
| <b>TOTAL</b>   | 359 | 274 | 116 | 749 |

| <b>Number of beneficiaries who in 2016 were referred to community-based day care</b> |                          |              |               |                |              |
|--|--------------------------|--------------|---------------|----------------|--------------|
| <b>Type of service</b>   | <b>Beneficiary's age</b> |              |               |                | <b>TOTAL</b> |
|  | <b>Children</b>          | <b>Youth</b> | <b>Adults</b> | <b>Elderly</b> |              |
| Day care for children and young persons with disabilities                            | 520                      | 462          |               |                | 982          |
| Day care for children and young persons with physical disabilities                   | 36                       | 19           |               |                | 55           |
| Day care for children and young persons with behavioural issues                      | 83                       | 66           |               |                | 149          |
| Day care for adults with disability  |                          |              | 523           | 8              | 531          |
| Day care for elderly   |                          |              |               | 1.624          | 1.624        |
| House help for children and young persons with disabilities                          | 193                      | 56           |               |                | 249          |
| House help for elderly and adults  |                          |              | 1114          | 9.334          | 10.448       |
| Drop in centre for street children   | 29                       | 1            |               |                | 30           |
| Drop in centre for adults and elderly  |                          |              |               |                | 0            |
| Child's personal companion   | 426                      |              |               |                | 426          |
| Other services supporting remaining in the family and in close environment           | 71                       | 30           | 188           | 305            | 594          |

| <b>Number of beneficiaries who in 2016 were referred to independent living support</b> |                           |               |                |              |
|--|---------------------------|---------------|----------------|--------------|
| <b>Type of service</b>   | <b>Beneficiary's age</b>  |               |                | <b>TOTAL</b> |
|  | <b>Children and Youth</b> | <b>Adults</b> | <b>Elderly</b> |              |
| Supported living for young persons becoming self-reliant                               | 60                        |               |                | 60           |
| Supported living for persons with disability   | 3                         | 11            | 0              | 14           |
| Personal assistant   | 254                       | 58            | 18             | 330          |
| Other forms of support essential for active participation in society                   | 181                       | 294           | 157            | 632          |
| <b>TOTAL</b>   | 498                       | 363           | 175            | 1.036        |

| <b>Number of referrals issued by CSW in 2017 for CB day care disaggregated by age</b> |                          |              |               |                |              |
|---|--------------------------|--------------|---------------|----------------|--------------|
| <b>Type of service</b>  | <b>Beneficiary's age</b> |              |               |                | <b>TOTAL</b> |
|   | <b>Children</b>          | <b>Youth</b> | <b>Adults</b> | <b>Elderly</b> |              |
|   |                          |              |               |                |              |

|  |     |     |       |       |       |
|--|-----|-----|-------|-------|-------|
| Day care for children and young persons with physical or intellectual disabilities         | 582 | 445 |       |       | 1027  |
| Day care for children and young persons in conflict with law, parents, school or community | 91  | 46  |       |       | 137   |
| Day care for adults with disability  |     |     | 552   | 152   | 704   |
| Day care for elderly in need of care and monitoring  |     |     |       | 100   | 100   |
| House help   | 134 | 43  | 1.006 | 7.352 | 8.535 |
| Drop in centre for street children   | 8   | 0   | 0     | 0     | 8     |
| Drop in centre for adults and elderly  |     |     | 1     | 0     | 1     |
| Child's personal companion   | 837 |     |       |       | 837   |
| Other services supporting remaining in the family and in close environment                 | 416 | 52  | 338   | 126   | 932   |

**Number of referrals issued by CSW in 2017 for independent living support disaggregated by age**

| Type of service  | Beneficiary's age  |        |         | TOTAL |
|--|--------------------|--------|---------|-------|
|  | Children and Youth | Adults | Elderly |       |
| Supported living for young persons becoming self-reliant             | 36                 |        |         | 36    |
| Supported living for persons with disability                         | 12                 | 5      | 0       | 17    |
| Personal assistant   | 32                 | 92     | 8       | 132   |
| Other forms of support essential for active participation in society | 3                  | 1      | 0       | 4     |
| Supported living for young persons becoming self-reliant             | 400                | 539    | 317     | 1256  |
| <b>TOTAL</b>   | 483                | 637    | 325     | 1.445 |

**Number of referrals issued by CSW in 2018 for CB day care disaggregated by age**

| Type of service  | Beneficiary's age |       |        |         | TOTAL |
|--|-------------------|-------|--------|---------|-------|
|  | Children          | Youth | Adults | Elderly |       |
| Day care for children and young person with physical or intellectual disability            | 510               | 381   | 0      | 0       | 891   |
| Day care for children and young persons in conflict with law, parents, school or community | 124               | 6     | 0      | 0       | 130   |
| Day care for adults with disability  | 0                 | 0     | 521    | 33      | 554   |
| Day care for elderly in need of day care and monitoring                                    | 0                 | 0     | 0      | 102     | 102   |
| House help   | 92                | 14    | 991    | 750     | 8597  |
| Drop in centre for street children   | 0                 | 0     | 0      | 0       | 0     |
| Drop in centre for adults and elderly  | 0                 | 0     | 540    | 107     | 647   |

|  |      |    |    |    |      |
|--|------|----|----|----|------|
| Child's personal companion   | 1192 | 0  | 0  | 0  | 1192 |
| Other services supporting remaining in the family and in close environment | 162  | 16 | 78 | 63 | 319  |

| <b>Number of referrals issued by CSW in 2018 for independent living support by age</b> |                           |               |                |              |
|--|---------------------------|---------------|----------------|--------------|
| <b>Type of service</b>   | <b>Beneficiary's age</b>  |               |                | <b>TOTAL</b> |
|  | <b>Children and Youth</b> | <b>Adults</b> | <b>Elderly</b> |              |
| Supported living for young persons becoming self-reliant                               | 28                        | 0             | 0              | 28           |
| Supported living for persons with disability   | 1                         | 0             | 0              | 1            |
| Personal assistant   | 56                        | 94            | 7              | 157          |
| Other forms of support essential for active participation in society                   | 15                        | 0             | 0              | 15           |
| Supported living for young persons becoming self-reliant                               | 133                       | 162           | 44             | 339          |
| <b>TOTAL</b>   | <b>233</b>                | <b>256</b>    | <b>51</b>      | <b>540</b>   |

Under art. 4, pras. 2, 3, and 11 of the Sports Law (RS/10/16), engagement in sports shall be humane, free and voluntary, healthy and safe, adjusted to circumstances in nature and social environment, fair, tolerant, ethically acceptable, responsible, free from any abuse and goals contrary to sporting spirit and accessible to all citizens under equal conditions, regardless of age, level of physical capacities, degree of disability if any, sex and other personal characteristic. Any discrimination is prohibited, direct or indirect, including hate speech, on any basis, by athletes, sport professionals, sport organisations or other persons parties in the sport system, in an open or covert manner, which is based on any actual or supposed personal characteristic.

Republic of Serbia, autonomous province, local government unit and sports organisations will particularly carry out the activities to increase participation of children, young persons, women and persons with disability in sport. Also, under art. 112, paragraph 1, point 9 thereof, common interest in the field of sport in Serbia includes also promotion of recreational sport, promotion of engagement in sports by all the citizens of Serbia, in particularly children, young persons, women and persons with disability. And under art. 117 thereof, the identified needs and interests of public in the field of sport in local government units for the fulfilment of which allocations are appropriated in the budget of local government units, under law, and thus under paragraph 1, point 1 of this article the needs and interests of public include the promotion and creation of the conditions for the promotion of recreational sports or engagement in sports by citizens, in particular children, young persons, women and persons with disability Therefore, and taking into account by-laws adopted on the basis of the Sports Law, sports persons are equal with view to all rights regardless of the category they belong to (scholarships, national sporting awards and cash rewards, etc.). Therefore, Ministry of Youth and Sports disbursed in total for the programme activities of the people with disability the following sums:

-Scholarships: RSD 31,283,628.00;

|                             |                    |
|-----------------------------|--------------------|
| -National sports awards:    | RSD 82,328,760.00; |
| - Cash rewards:             | RSD 54,280,000.00; |
| -Regular annual programmes: | RSD 55,000,000.00; |
| -Sporting camps:            | RSD 431,200.00;    |

## Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 15§3 of the Charter on the following grounds:

- it has not been established that anti-discrimination legislation covers communication;
- it has not been established that persons with disabilities have effective access to transport and housing.

## Media

A set of laws on media services has been adopted, in particular the Information and Media Law, Electronic Media Law and Public Media Services Law.

Under the Public Information and Media Law (RS/ 83/14) to protect interests of persons with disability and ensure their equal enjoyment of right to freedom of thought and expression, measures shall be taken at national, regional and local levels to ensure that persons with disability receive information for public without any impediments, in appropriate form and with the application of adequate technology, and shall provide a share of resources or other requirements for the work of media publishing information in sign language or using Braille alphabet or in any other way ensure them to have full access to their rights with regard to public information. Public interest in the field of public information is also the information of persons with disabilities and other minority groups (article 15).

### Electronic Media Law (RS/ 83/14)

Under art. 52 a media services provider shall, taking into account its financial and technical capacities, make its programme and content accessible to persons with impaired hearing and/or sight. The Regulator shall encourage a media services provider to make its programme and content accessible to the referred to persons.

### Public media services Law (RS/ 83/14)

Art. 7 imposes an obligation to address the need for information of all sections of society without discrimination, taking in particular into account socially vulnerable groups such as children, young persons and old persons, minorities, persons with disability, in social and health-related vulnerable situation, etc. public interest that public media exercise through their programmes and contents. A natural person, owner of electric power meter, living in one-member household or who is a breadwinner in a multi-member family shall be exempt from the obligation to pay fee, provided that s/he is:

- 1) person with disability with 100% of corporal impairment;
- 2) person with disability with less than 100% corporal impairment, if under the provisions of special legislation, is eligible to caregiver's allowance;
- 3) a person with permanent loss of hearing or a blind person

Establishment shall be exempt from the obligation to pay fees which under law governing social welfare are regarded of as residential care institutions, education institutions, health care institutions and organisations of persons with disability and enterprises for occupational rehabilitation and employment of persons with disabilities

In April 2015, the Sign Language Law (RS 38/15) was adopted. The Law governs the usage of sign language, i.e. right to learning a sign language and right to use services of a sign language interpreter, manner in which the service is used, measures for the promotion of application and strengthening of the usage of a sign language through information and education in a sign language, and other matters of relevance for the use of a sign language. A deaf person using a sign language, i.e. a deaf person who is not in a position to on the basis of any other form of communication, by lips reading, writing or in any other manner, exercise a right, interest based in law or exercise an obligation shall be entitled to the services of an interpreter for a sign language.

Deaf persons shall be entitled to the use of a sign language in the proceedings before a state authority at national, regional or local levels, including other authority or organisation and a legal person with the delegated public powers (hereinafter referred to as: public service). A deaf person participating in political life – at meetings and sessions of public authorities, shall be entitled to a sign language.

National Institute for Informatics and Internet in its Recommendations for Development of Web Presentations of State Authorities published in April 2018 included the recommendation on electronic accessibility for the blind and poor sighted, in compliance with the relevant international standards and recommendations

## ALLOWANCES IN INTERNAL PASSENGER TRANSPORT

National legal system ensures that there are allowances under law in internal passenger transport.

The following persons are entitled to allowances:

- Blind persons;
- Persons suffering from dystrophy and equal muscular or neuro-muscular diseases;
- Persons suffering from plegia;
  - Persons suffering from cerebral paralysis and polio and multiple sclerosis, and their companions

These persons are entitled to allowances applicable in internal passenger transport providing their permanent place of residence is in Serbia.

In internal passenger transport a blind person or person down with dystrophy or equal muscular or neuro-muscular diseases, plegia, cerebral paralysis, polio, and multiple sclerosis shall be entitled to six travels under allowance regime, in a calendar year, in the amount of:

- 75% regular price of a fare by railway, road or sea or river;
- 50% regular price of a fare by air. One fare in internal passenger transport is leave from departing to arriving place (a departure ride) and return from the arrival to departure place (a return ride).

A companion shall be entitled to free of charge ride by railway, road, sea or river and with 50% allowance of regular fare by air, in the cases when accompanying the disabled, travels to fetch the person or returns after accompanying such a person.

The disabled and their companions shall be entitled to transport allowance in any class, by train (business, express, fast or passenger), i.e. ship, including for economic class in an air craft.

The right to allowance shall be administered for a person with disability on the basis of a booklet for transport allowance. The booklet shall be obtained at:

- Serbia association of the blind and poor sighted
- Serbia association of persons suffering from dystrophy
- Serbia association of quadriplegics and paraplegics
- Serbia association for persons with cerebral paralysis and polio
- Serbia association for persons with multiple sclerosis

Regarding allowances for parking and stopping vehicles, the exercising of the rights for persons with disability depend on regional level regulations.

Therefore, interested parties are required to contact municipality of their permanent residence and the parties of the competent authorities in charge of the matters of transport be informed on the options regarding the allowances in terms of parking and stopping of vehicles in the territory across which they pass driving their own vehicles.

In big city areas, there are clearly marked places for parking of the vehicles of persons with disabilities.

This matter is covered by the following legislation:

- Allowances in internal passenger transport of persons with disabilities Law (RS 22/93, 25/93 and 101/05)
- Rulebook on the access by persons with disability to allowances in internal passenger transport (RS 31/93, 05/94 and 38/94).

Public Roads Law, art. 23 and 24 govern exemption from the payment of public road pricing. As of 1 January 2014, permits for free pass on the highways of Serbia are being obtained under the new procedure and validity of such permits is permanent.

#### **Article 18§1**

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

The Committee has assessed that the situation in Serbia is in conformity with article 18.1.

#### **Article 18§2**

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

#### **Conclusion**

The Committee concludes that the situation in Serbia is not in conformity with Article 18§2 of the Charter on the ground that formalities to obtain the residence and work permits have not been simplified.

Taking into account the significance and our country's interest in further employment, and as a result the importance of strengthened economy, Foreign Nationals Law (RS 24/2018) has been amended enabling foreign nationals in Serbia to obtain a work permit under the facilitated procedure. It means that a foreign national who has obtained a visa for a longer stay on the basis of employment may

exercise the right to employment under the regulations governing employment of foreign nationals in Serbia.

The other novelty under this amended law means that a foreign national may apply for temporary residence in person and also electronically. Electronic application may be used when a foreigner applies from abroad, accelerating the procedure to obtain approval for temporary residence in Serbia

Under the new law, one-stop shop is put in practice where application for temporary residence and work permit are submitted using one application form. As a result, a foreign national shall submit in person or electronically an application for approval or renewal of temporary residence including the application for work permit, to a competent authority using an application form as provided for under law.

### **Article 18§3**

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

The Committee has assessed that the situation in Serbia is in conformity with article 18.3.

### **Article 18§4**

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

The Committee asks again what is the legal framework that guarantees the right of nationals to leave the country. It also asks what restrictions apply in this regard.

#### *Conclusion*

Pending receipt of the information requested, the Committee defers its conclusion.

#### **Freedom of movement**

Under art. 39 of the Constitution of the Republic of Serbia, everyone shall have a right to move freely and to settle in the Republic of Serbia, to leave and return to it.

The freedom of movement and settlement and right to leave the Republic of Serbia may be restricted by law to conduct criminal proceedings, protect public order, prevent spreading of infectious diseases or defend the Republic of Serbia.

Under art. 3 of the Travel Documents Law, all the nationals of Serbia shall be entitled to a travel document. The deadline for the issuance of one is 30 days from the application submitted to a competent public authority.



## **Article 20/Article 1 of the 1988 Additional Protocol\***

Please provide up-dated information on the statutory framework guaranteeing equal pay for equal work or work of equal value with particular emphasis on the following aspects:

- rules on shifting the burden of proof in cases where pay discrimination is alleged on grounds of sex
- rules on compensation in case of pay discrimination on grounds of sex (are ceilings applicable?)
- does national law and practice provide for pay comparisons outside the company directly concerned?

Please describe the job classification and promotion systems in place as well as strategies adopted and the measures taken to ensure pay transparency in the labour market (notably the possibility for workers to receive information on pay levels of other workers), including the setting of concrete timelines and measurable criteria for progress.

Please provide statistical data on the gender pay gap (adjusted and unadjusted) for all years of the reference period.

Regarding equal pay for women and men, please note that under art. 60 of the Constitution of the Republic of Serbia (RS 98/06) everyone shall be entitled to fair remuneration for work.

Under Labour Code (24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 (CC), 113/2017, 95/2018 (authentic interpretation), art. 18-23, discrimination is prohibited.

Under art. 18 of the Labour Code, direct and indirect discrimination of persons seeking job shall be prohibited, including employees, on the basis of sex and other distinctions among employees.

Under Labour Code in the context of rewarding, there is equality regardless of an employee's sex, or any other personal characteristics. Equal pay for equal work shall be guaranteed to every employee for their work in an undertaking.

Under art. 104, paras. 1 and 2 of Labour Code, employees are entitled to adequate wages which is determined as provided under law, staff regulations and employment contract. Equal pay for equal work shall be guaranteed to every employee. Under the Law, employee is a natural person in employment with an undertaking (art. 5 of the Labour Code.

Thus, in national legislation, no distinction is made between men and women, and as a result there is no distinction with regard to labour rights and rewarding. Equal work shall mean the work for

which equal level of qualification, i.e. education, knowledge and skills, is required, with equally achieved performance on the basis of equal responsibility.

A decision made by an undertaking or an agreement signed with an employee under which equal pay for equal work is not guaranteed shall be deemed null and void.

In case of the violation of the referred to rights, an employee is entitled to indemnification (art. 104, paras. 3 and 4 of the Labour Code).

Therefore, the provisions of Labour Code are based on the principle of non-discrimination and equal pay for equal work, and in case of violation of equal pay for equal work principle, an employee is entitled to compensation – i.e. indemnity.

Under art. 17 of the Gender Equality Law (RS104/2009) an employee, regardless of sex, is entitled to equal pay for equal work, under law governing labour. Art. 49 thereof is about presumption of guilt and burden of proof. According to this article, it is not allowed to undertake to prove that a direct sex-based discrimination has been made without guilt, if between the parties it is clear or court has established that an act of direct discrimination had been made, and the burden of proof shall be on the defendant who must prove that principles of equality and/or equal rights and responsibilities had not been violated, if in the course of the proceedings the plaintiff has made probable that the sex-based act of discrimination had been committed. Under art. 54 paragraph 1, point 6 thereof with the reference to art. 17, an undertaking violates the provisions on equal pay for equal work for women and men, it shall be fined in the amount between RSD 10.000 and 100.000.

#### **Article 24\***

Please provide an up-dated description of national law concerning valid reasons of dismissal. As regards dismissal for certain economic reasons, please indicate whether the courts have the competence to review a case on the economic facts underlying dismissals.

Please indicate what safeguards exist against retaliatory dismissal and dismissal due to temporary absence from work due to illness or injury (e.g. time limit on protection against dismissal, rules applying in case of permanent disability and compensation for termination of employment in such cases).

Please indicate what strategies and measures exist or are being introduced to ensure dismissal protection for workers (labour providers), such as “false self-employed workers” in the “gig economy” or “platform economy”. Please outline the obligations on employer’s/labour engagers in this respect.

Please provide an up-dated description of national law and practice as regards compensation and reinstatement in case of unlawful dismissals.

Reasons for dismissal are provided for under art. 179 of Labour Code (RS 24/05, 61/05, 54/09, 32/13, 75/14, 13/17 (CC) 113/17, and 95/18 – authentic interpretation). Under art. 179, para. 5, point 1 of Labour Code, employment relation may be terminated if due to technological, economic, or organisational changes the need for certain job ceases, or workload decreases as a result.

Art. 191 of Labour Code regulates legal effects of unlawful termination of employment relation, before competent courts, regardless of the grounds for the termination, and/or in case of the termination as provided for under art. 179, para. 5, point 1 of Labour Code.

Art. 101 of Labour Code provides for protection for a person with disability and employee with health condition. An undertaking shall ensure that an employee who is a person with disability and employee referred to in art. 81, para. 2 thereof (the employee with health condition, established as such by a competent health authority, may not take assignments which may cause deterioration of their health condition or lead to consequences harmful for their environment) to take assignments which fit with the employee's working capacity, as provided for in law. Under art. 102 of Labour Code, an undertaking may terminate an employment contract if an employee refuses to take the assignment as referred to in art. 101 thereof. If an undertaking may not ensure for the employee adequate assignment as referred to in art. 101 thereof, such an employee shall be regarded of as a redundant as referred to in art. 179, para. 5, point 1) thereof.

Under art. 183 of Labour Code, temporary incapacity for work due to an illness, occupational injury or disease, maternity leave, childcare and special child care leave shall not constitute a justifiable reason for the termination of an employment contract, as referred to in art. 179 thereof.

Art. 187 of Labour Code, provides for special protection from the termination of a contract of employment.

An undertaking may not terminate a contract of employment to a worker who is pregnant, on maternity leave, childcare leave, and special child care leave.

The period of fixed-term employment contract of the employee referred to in paragraph 1 thereof (pregnancy, maternity leave, childcare leave, special childcare leave) shall be extended until the expiry of their entitlement to leave from work.

A written decision on termination of employment contract shall be null and void if on the date of its issuance the undertaking was in the know of the existence of the circumstances referred to in paragraph 1 thereof or if the employee within 30 days from the termination notifies the undertaking

on the circumstances referred to in paragraph 1 thereof and submits the relevant certificate issued by an authorised medic or any other competent authority.

The undertaking may not terminate employment contract, nor otherwise place in less favourable position an employee on account of their status or activity in the capacity of the representative of employees, trade union membership or participation in trade union activities.

Burden of proof that the termination of employment contract or placing in less favourable position is not a consequence of the employee's status or activity referred to in paragraph 1 thereof shall rest on the undertaking.

### **Article 25**

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

The Committee has assessed that the situation in Serbia is in conformity with article 25.

