

GOVERNMENT OF THE REPUBLIC OF SERBIA

**INITIAL REPORT ON THE IMPLEMENTATION OF THE CONVENTION
ON THE RIGHTS OF PERSONS WITH DISABILITIES**

Belgrade, January 2012

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Articles 1 to 4

Definition of disability

1. The legal system of the Republic of Serbia does not have a single, comprehensive definition of disability. Both terms are defined in several laws, by-laws and policy documents.
2. The Law on Prevention of Discrimination against Persons with Disabilities¹ (LPDPD) defines persons with disabilities as persons with congenital or acquired physical, sensory, intellectual or emotional (psycho-social) impairment who are, due to social or other barriers, unable or have limited opportunities to engage in social activities at the same level as others, regardless of whether they are capable to carry out such activities with the use of technical aids or support services (Article 3, paragraph 1).
3. The Law on Professional Rehabilitation and Employment of Persons with Disabilities² (LPREPD), according to the social model of disability, objectives and principles set by the Strategy for Improving the Position of Persons with Disabilities³ (SIPPD), defines persons with disabilities as persons having from permanent consequences of physical, sensory, mental or psychiatric impairment or disease that cannot be eliminated by any treatment or medical rehabilitation and faced with social and other limitations and barriers affecting their working capacity and possibility to find or retain employment, and who have no possibility or have reduced possibilities to be included in the labour market or apply for employment on equal terms with other persons (Article 3, para. 1). In accordance with conventions and recommendations of the International Labour Organisation, the definition determines the concept of “long-term impairments” as impairments that cannot be eliminated by any treatment or medical rehabilitation, which creates permanent consequences.
4. LPREPD is based on the principles of respecting human rights and dignity of persons with disabilities, inclusion of persons with disabilities in all spheres of social life on equal terms and according to their professional skills, encouragement of employment of persons with disabilities at appropriate positions and in appropriate working conditions, prohibition of discrimination of persons with disabilities, equal rights and obligations and gender equality of persons with disabilities.
5. In accordance with LPREPD, the status of a person with a disability shall have:
 - A disabled war veteran;
 - A disabled war veteran in peacetime;
 - A disabled war veteran in civil service;
 - A person categorised as a disabled person and other person whose disability was determined in accordance with the law;
 - A person who was assigned a degree of disablement, i.e. whose remaining work capacity was assessed; and

¹ “Official Gazette of RS” No. 33/06

² “Official Gazette of RS” No. 36/09

³ “Official Gazette of RS” No.55/05 and 71/05 – amended

- A person whose work capacity was assessed, according to which such a person has an opportunity to find employment and retain such employment, i.e. job.

6. The Law on Fundamentals of the Education System (LFES)⁴ defines a disability in the educational system as “children and students with developmental impairments and disabilities”, i.e. “handicapped students”, according to the Law on Higher Education⁵.

7. According to the Law on Pension and Disability Insurance⁶ a disability exists when an insured person experiences total loss of his/her work capacity due to the changes in the health condition resulting from an injury at work, occupational disease, injury outside of work or illness which cannot be eliminated by any treatment or medical rehabilitation.

8. SIPPD defines persons with disabilities as “persons with congenital or acquired physical, sensory, intellectual or emotional impairment who are, due to social or other barriers, unable or have limited opportunities to engage in social activities at the same level as others, regardless of whether they are capable to carry out such activities with the use of technical aids or support services“.

Anti-discriminatory legislation and policies

9. The Republic of Serbia maintains views set out in paragraph 486 and paragraphs 488 to 499 of the Second Periodic Report on the Implementation of the International Covenant on Civil and Political Rights (CCPR/C/SRB/2).

10. The Law on the Prohibition of Discrimination⁷ (LPD) prescribes that discrimination shall be considered to exist in case of conduct contrary to the principle of observing equal rights and freedoms of persons with disabilities in political, economic, cultural and other aspects of public, professional, private and family life (Article 26).

11. LPDPD shall prohibit:

- Direct discrimination,
- Indirect discrimination,
- Violation of the principle of equal rights and obligations

12. LPDPD shall guarantee protection of individuals who reported incidents of discrimination, who plan or have filed a claim against discrimination, or will testify in initiated discrimination proceedings.

13. LPDPD also prescribes particularly serious cases of discrimination and actions to be taken to improve the status of persons with disabilities, members of their

⁴ “Official Gazette of RS” No. 72/09 and 52/11

⁵ “Official Gazette of RS” No. 76/05,100/07 – authentic interpretation, 97/08,94/10 and 52/11

⁶ “Official Gazette of RS” No. 34/03

⁷ “Official Gazette of RS” No. 22/09

families and associations that are provided with special support necessary for exercising rights under the same conditions as for others.

14. LPDPD prescribes special cases of discrimination in the following spheres of life:

- Proceedings before public authorities (Article 11),
- Membership in associations (Article 12),
- Access to facilities, public areas and services (Art. 13 to 16),
- Health care services (Article 17),
- Education (Art. 18 to 20),
- Employment and labour relations (Art. 21 to 26),
- Access to public transport (Art. 27 to 29),
- Marital and family relations (Article 30).

15. With respect to the purpose of the Convention, the Law on Social Protection⁸ (LSP), in terms of social protection, prescribes principles of respecting users' integrity and dignity. The user shall, in accordance with the Law, have the right to social protection which shall be based on social justice, responsibility and solidarity, which shall be provided to him/her by respecting his/her physical and mental integrity, security, as well as by respecting his/her moral, cultural and religious beliefs, in accordance with guaranteed human rights and freedoms (Article 24).

16. The Rulebook on the organisation, norms and standards of centers for social work⁹ stipulates the anti-discrimination principle. The Center for Social Work shall be responsible to represent interests and rights of users and to ensure equal access to services for all citizens, regardless of ethnic, cultural, religious, gender or socio-economic differences, disability and sexual orientation (Article 7).

17. Additionally, LSP prescribes the principle of non-discrimination. It prohibits direct or indirect discrimination of social protection users based on race, gender, age, nationality, social origin, sexual orientation, religion, political views, trade union and other orientation, property status, cultural origin, language, disability, nature of social exclusion or other personal characteristic (Article 25).

18. LFES prescribes that education of persons using sign language, i.e. special alphabet or other technical solutions, may be provided in the sign language and using means of the language (Article 9, para. 4).

19. The Law on Teachings and Other Teaching Materials¹⁰ prescribes that a textbook, i.e. teaching materials used for customised education of the blind and visually impaired, may be written in Braille, in an electronic form or in formats customized to the blind and visually impaired, i.e. texts printed in capital letters, sound recordings or photo enlargements, and/or other form and medium (Article 3, para. 5).

⁸ "Official Gazette of RS" No. 24/11

⁹ "Official Gazette of RS" No. 59/08 and 37/10, by-law of the Family Law, 39/11- amended by other rulebook

¹⁰ "Official Gazette of RS" No. 72/9

20. LFES defines general principles of the educational system according to which: there must be provided an equal right and access to education for all children, students and adults; equal opportunities for education at all levels and types of education in accordance with needs and interests of children, students и adults, without any obstacles to changes; continuation and completion of education and lifelong education; possibilities for children, students and adults with developmental impairments and disabilities, regardless of their financial situation, to have access to all levels of education in institutions, as well as to exercising the right to education without violating other children's rights and other human rights (Article 3).

21. In terms of violation of the right to education, LFES prescribes educational monitoring and monitoring inspection and penal provisions (Art. 161 to 163).

22. The Law on Health Care¹¹ (LHC) determines that social care for health, under equal conditions and in the territory of the Republic of Serbia, shall be ensured by providing health care to the group of citizens exposed to an increased risk of disease, health care to persons related to the prevention, suppression, early detection and treatment of a disease of greater socio-medical importance, as well as health care to socially vulnerable population. Health care, *inter alia*, includes persons with disabilities and mentally disabled persons.

23. LHC defines the principle of health care equality which is essentially anti-discriminatory. The principle of health care equality is practiced by prohibition of discrimination in the provision of health care based on race, gender, age, nationality, social background, religion, political and other views, property status, cultural origin, language, type of illness, mental or physical disability (Article 20).

Employment

24. Data from the World Bank indicate that there is only about 13% of persons with disabilities (PWD) employed in Serbia. An additional concern is the fact that 10% from this figure is employed in the NGO sector, that is, most of them are employed in PWD organisations and only 1% in the economy and public sector. PWD unemployment is thus three times higher in comparison to the rest of the population. Prior to the adoption of LPREPD, practice in this field did not provide equal access to the open labour market for PWDs. Moreover, a dominant form of employment was in so called "sheltered workshops".

25. Adoption of LPREPD for the first time created a possibility for PWDs to be included in a larger number in the open labour market, and to improve quality of their employability and/or employment quality. LPREPD in this sense prescribes a series of incentive measures and activities for unemployed persons and employers alike. For unemployed persons are particularly important professional rehabilitation measures and active employment policy measures. Adoption of LPREPD was followed by the adoption of by-laws that more closely regulate this field.

26. The ministry competent for employment, in cooperation with the National Employment Agency (NEA) and Statistical Office of the Republic of Serbia (SORS),

¹¹ "Official Gazette of RS" No. 107/2005, 72/2009 – amended by other law, 88/2010, 99/2010 and 57/2011

regularly monitors a labour market situation and trends and evaluates effects and impact of individual employment programs and measures. The ministry monitors implementation of programs and measures envisaged by the national employment action plan by means of indicators. The system of statistical indicators and calculation methodology are developed in accordance with international and European standards and defined in the National Employment Action Plan.

27. The Labour Law (LL)¹² prescribes prohibition of direct or indirect discrimination against persons seeking employment and against employees, *inter alia*, on the basis of their health and/or disability (Article 18). Discrimination referred to in Article 18 of the Law, is prohibited in relation to: requirements for recruitment and selection of candidates for a particular job, working conditions and all rights related to employment, education, training and development, promotion, and termination of the employment agreement.

28. Provisions of the employment agreement determining discrimination on any of the grounds referred to in Article 18 of the Labour Law, are null and void. In cases of discrimination in terms of provisions of Art. 18 to 21 of the Law, a person seeking employment, and employees, may initiate compensation proceedings before the competent court, in accordance with the Law.

29. In accordance with Article 104 of the Labour Law, an employee shall have the right to appropriate pay, which shall be determined in accordance with the Law, general act and employment agreement. The employee shall be guaranteed equal pay for the same work, or for the work of an equal value which he/she performs for his/her employer. An employer's decision or an agreement with an employee which are not in accordance with the principle of equal pay for the same work, or for the work of an equal value, shall be null and void, and in case of violation of this principle, the employee shall have the right to compensation. In practice, the pay is usually determined by a general act (collective agreement or rules of procedure) or by the employment agreement. These acts include elements for determining salaries, compensation of costs, other benefits of employees, etc. Specific minimum rights are determined by the law, and more rights are determined by the collective agreement, such as: salary increase (for night work, overtime and work on holidays, which are non-working days, and for past work); sick leave pay and pay for temporary termination of employment; severance pay in case of retirement and severance pay for termination of the employment agreement due to redundancy.

30. In determining salaries and other benefits, the right to equal pay must be ensured for the same work, or for the work of an equal value, performed for the employer, in accordance with the above stated legislative provisions.

31. The ministry competent for employment shall monitor implementation of the law and regulations adopted for its execution, as well as operation of NEA and the Agency. In accordance with regulations on tax procedure and tax administration, the Tax Administration controls the obligation of employing persons with disabilities. This action provides information on the total number of employed persons with disabilities and on manners in which employers fulfil the employment obligation.

¹² "Official Gazette of RS" No. 24/05, 61/05 and 54/09

32. LPREPD prescribes that activities of enhancement of employment of persons with disabilities shall be performed by an organisation competent for employment operations. An active PWD employment policy includes incentives aimed at improving PWDs' motivation, employment and self-employment. NEA is, together with institutions for professional rehabilitation and employment of persons with disabilities and educational institutions, responsible for implementation of measures and activities related to professional rehabilitation.

Specific anti-discrimination measures

33. LPD prescribes that a claim against discrimination based on disability may, in addition to PWDs and their legal representative, be submitted by the Commissioner for the Protection of Equality and organisation dealing with protection of human rights and/or rights of a specific group of persons. According to LPDPD, a member of the household of a person with a disability, who without charge assists the disabled person in carrying out everyday activities, who was for this reason discriminated in the field of employment and labour relations, may also file a claim against discrimination based on the temporary or permanent connection to the person with a disability.

34. In December 2005, the Republic of Serbia adopted the Social Welfare Strategy¹³, which binds it to take care of persons with disabilities in the least restrictive environment, according to their condition. Therefore, one of the priorities of the reform of the social protection system is to improve protection of these particularly vulnerable groups through the process of preventing institutional care, gradual reduction of institutions' capacities, rising the quality of institutional care and creating possibilities for users to leave institutions and go to the natural or less restrictive environment. This process requires time and substantial material resources.

35. Serbia has in the last several years made a considerable effort to both, raise standards in facilities for accommodating users (construction, renovation, adaptation, etc), and train staff and change mindset and opinion regarding protection of children and adults with disabilities.

36. The Ministry of Labour and Social Policy (MLSP), as part of the Family Care and Social Welfare Department, carries out activities at three levels of operation in order to improve living conditions of persons with disabilities:

- Supporting local self-governments in establishing and sustaining social protection services at the local level, and developing PWD services;
- Improving living conditions and treatment of users of institutional accommodation in social care facilities;
- Developing and training professional staff.

37. As a prerequisite for long-term sustainability of all newly established support services in the social protection system, new LSP, *inter alia*, more closely regulates the position of persons with developmental impairments, i.e. persons with disabilities.

¹³ "Official Gazette of RS" No. 108/05

38. LSP envisages prohibition of discrimination based on disability, “social protection services shall be provided in accordance with the best interest of the user, taking into account his/her life cycle, ethnic and cultural origin, language, religion, lifestyle, developmental needs and needs for additional support in everyday activities” and “social protection services shall be provided primarily in direct and least restrictive environment, and those services shall be selected which shall allow the user to stay in the community”.

39. Social protection services are divided into the following groups: assessment and planning services; daily services in the community; support services for independent living; advisory-therapeutic and socio-educational services; and accommodation services.

40. The user shall, in accordance with LSP, have the right to participate in the assessment of his/her condition and needs, and in deciding on whether he/she shall accept a service, and he/she shall receive all required notifications on time, including a description, purpose and benefit of a proposed service as well as information on available alternative services and other information relevant for the provision of a service.

41. Without consent of the user or his/her legal representative, no service may be provided, except in cases determined by LSP.

42. For the users who, because of their specific social and health status, have a need for both social care and constant health care or supervision, this Law shall, for the first time, allow establishment of facilities with both social and health care. For such users, LSP also envisages a possibility of establishing special social and health organisational units within social care facilities, i.e. within health care facilities.

43. Another novelty introduced by LSP are so called “work centers”. Namely, “services aimed at improving job skills, i.e. recruitment of PWDs who are users of social protection services, shall be provided in social care facilities and in work centers, in accordance with the Law regulating professional rehabilitation and employment of persons with disabilities”.

Practice

44. After a visit of the representatives of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe, to the Republic of Serbia in 2007, it was pointed to the need to reassess the status of with intellectual disabilities users in social care facilities. Acting according to the recommendation of the Committee, in early 2008, the Ministry of Labour and Social Policy (MLSP) required from all centers for social work and from facilities accommodating persons with intellectual disabilities to reassess guardian’s care and provide legally valid consents for the accommodation in the facilities. Centers for

social work received an instruction that the purpose of the stated procedures is not to cause massive deprivation of work capacity of accommodation users, but to make a valid assessment of the remaining capacity, with users' participation, in accordance with their abilities.

45. For the purpose of increasing professional competence of employees in centers for social work, guardian care training was held in December 2010, and another training of employees related to the same matter was planned in social care facilities. In particular, social care facilities have been executing obligations of guardians and guardianship authorities related to providing identity documents to residents, comprehensive and continuous health care and disposal and management with their property.

46. For the purpose of improving living conditions of users, significant funds were invested in the facilities. In terms of space, and capacity operability and suitability (construction and technical conditions), most facilities underwent changes, which improved the quality of life of users.

47. In the last three years, total investment funds allocated to facilities accommodating persons with developmental disabilities amounted to about RSD 384,386,267. The funds were mostly used for various repairs, renovations, construction as well as for the procurement of various equipment for work. Investments in 2010 were as much as 4 or 5 times higher than in the previous years.¹⁴

48. In addition to the budget, social care facilities providing accommodation also had at their disposal funds from donations. A number of domestic and international economic organisations and citizens' associations and individuals donated funds mostly for equipping rooms in facilities for accommodating persons with disabilities.

49. Preventive activities: centers for social work in the Republic of Serbia were obliged by the Rulebook on the organisation, norms and standards of centers for social work to develop preventive programs which shall contribute to meeting individual and common needs of citizens, i.e. to the prevention and mitigation of social problems occurring in the local community. Preventive activities in the operation of centers are carried out by implementing specific, thematic and target-group oriented preventive programs. Centers for social work carry out these activities together with other systems in the community, taking into account the need to protect persons with disabilities and improve their status in their local communities.

50. Adults with disabilities vary in type and level of a disability (which ranges from reduction to the loss of ability to function independently), which directs these persons to continuous use of services of social care facilities and guardianship authorities.¹⁵

51. Provision of new social, health and other services to families and individuals in a local community shall enable gradual reduction in the pressure related to accommodating persons with disabilities in these facilities, but also an increased possibility of returning a number of users to their family and natural environment. In this regard, it should be noted that implementation of this process might take a while.

¹⁴ Tables presented in para. 1-2. of the Annex

¹⁵ See Table in paragraph 2 of the Annex

Staff training and education: An overview of accredited programs for the protection of persons with disabilities

52. In 2007, in the Republic of Serbia was implemented a mechanism for continuous training of employees in the social protection system, i.e. accreditation of training programs for providers of social protection services. This mechanism has also been included in LSP, and a by-law is being developed.

53. The Register of accredited programs, kept in the Republic Institute for Social Protection, so far has 19 registered programs for the protection of persons with disabilities or for the protection of children and young persons with developmental disabilities. So far, about 11 to 19 programs have been implemented.

Progressive implementation

54. With the adoption of the stated anti-discrimination mechanisms, the Republic of Serbia has been carrying out its obligation of providing persons with disabilities with effective legal protection against discrimination referred to in Article 5 of the Convention. Also, the Republic of Serbia takes actions of ensuring persons with disabilities free and equal exercise of the following rights:

- Right to life (Article 10),
- Situations of risk and humanitarian emergencies (Article 11),
- Equal recognition before the law (Article 12),
- Access to justice (Article 13),
- Liberty and security of the person (Article 14),
- Freedom from torture or cruel, inhuman or degrading treatment or punishment, including medical experiments (Article 15),
- Freedom from exploitation, violence and abuse (Article 16),
- Protecting the integrity of the person (Article 17),
- Liberty of movement and nationality (Article 18),
- Respect for privacy (Article 22),
- Respect for home and the family (Article 23),
- Health (Article 25),
- Work and employment (Article 27),
- Participation in political and public life (Article 29).

55. Freedom of opinion and expression, and the right to receive and disseminate information (Article 21): in May 2008, a mixed working group of MLSP and the Serbian Association of Deaf and Hard of Hearing, supported by UNDP, started to develop a draft Law on the use of Serbian sign language, and to work on the standardization of Serbian sign language, and the service of translation into the sign language in Belgrade has been financed through a World Bank's project. The law is expected to be adopted by 2012.

The right to social protection (Article 28): new LSP was adopted. More than RSD 4 billion was allocated from the budget to LSP implementation in 2011.

56. In Article 5, The Law on Spatial Planning and Construction ¹⁶ stipulates that public and business facilities have to be designed and constructed in the manner that persons with disabilities, children and elderly persons are able to freely access, move, stay and work in them. Residential and combined residential and office buildings with ten or more apartments must be designed and constructed in the manner that persons with disabilities, children and elderly persons are able to freely access, move, stay and work in them.

57. SIPPD envisages gradual and continuous adaptation of existing public facilities, transport infrastructure and means of public transportation in all spheres of transportation, to make them become accessible for persons with disabilities (special objective 14).

58. The Republic of Serbia shall take efficient and appropriate measures to facilitate persons with disabilities to fully exercise the right to life in the community, and their full inclusion and participation in the community (Article 19). LSP, *inter alia*, envisages provision of support services for independent living in the community by organising personal assistance services at the local level and supported housing, as well as various daily services which include daily care and help in the household.

59. The Republic of Serbia shall progressively implement measures for habilitation and rehabilitation of persons with disabilities (Article 26). LPREPD regulates in detail activities of organisations for professional rehabilitation and employment of persons with disabilities. Special budget fund was created for enhancing employment and professional rehabilitation in 2010.

60. LFES prescribes an equal right and access to education for all, which implies application of inclusive measures in educational practice. It is mandatory to enrol all children in the preparatory preschool program for the primary school. The Law envisages a possibility that children from vulnerable groups work according to an individual educational program. LFES implies equality of boys and girls, i.e. gender equality. The preparatory preschool program, as well as the primary school, is compulsory for children and students. After completion of the primary school, every student has the right to apply for enrolment to the secondary school, according to the wish list, and in accordance with points scored on the final exam and success in the primary school.

61. The Law on Textbooks and Other Teaching Materials also includes low-circulation textbooks for students with development disabilities, as well as the right to publish textbooks in Braille and in an electronic form.

62. The Law on Preschool Education¹⁷ enables all children to be enrolled in regular kindergarten groups, and also prescribes development groups which children with developmental disabilities are enrolled in, upon parents' consent.

63. The Rulebook on additional educational, health and social support to the child and student¹⁸ regulates an assessment of needs for additional student support in the

¹⁶ "Official Gazette of RS" No. 72/09, 81/09, 64/10 and 24/11

¹⁷ "Official Gazette of RS" No. 18/2010

educational system, if required, through the operation of the Interdepartmental Commission (IC), at the local level.

64. The Rulebook on detailed guidelines for determining the right to the individual education plan (IEP), and its implementation and evaluation¹⁹, enables children from vulnerable groups to be organised within the regular educational system in accordance with their abilities. This means that students who attend schools for students with developmental disabilities, who enrolled by the end of 2009, may also study according to IEP and in accordance with their individual potentials. In terms of the students who enrolled to schools for students with developmental disabilities in academic 2010/2011, teachers shall be obliged to work according to individual curriculum for every child.

65. Over 7500 persons working in the educational system have been trained in inclusive education and IEP development and implementation.

66. Over 140 ICs have been established, and there is a tendency of establishing new ICs in municipal and city administrations of the Republic of Serbia. With regard to smaller municipalities, joint ICs may be established. All IC members were trained to work and use the Rulebook on additional educational, health and social support to the child and student. Training was provided to three permanent IC members (a representative from the health care, educational and social protection system) and Commission coordinator. Support to IC operation has been also provided through the IC Manual. A guidebook for parents is also available, whose aim is to familiarise parents better with their role in IC operation and with rights of their child.

67. The Manual for inclusive school development was issued in cooperation with the Institute for Education Quality and Evaluation, which assists schools in developing an inclusive policy, culture and practice.

Additionally, LFES prescribes progressive implementation of achievement standards according to their levels for the primary and secondary education.

Degree of involvement of persons with disabilities in Convention implementation issues

68. In 2002, the Government of the Republic of Serbia established the Council for Persons with Disabilities. The Council consists of representatives of competent ministries and PWD national organisations. The Council monitors implementation of the PWD policy and serves as a forum to discuss about proposed regulations relevant for PWDs' rights and improvement of PWDs' status. The National Organisation of Persons with Disabilities of Serbia (NOPWDS) appointed as its representatives in the Council delegates from representative organisations, who are persons with physical, sensory and intellectual disabilities. All NOPWDS representatives in the Council are either persons with disabilities or their legal representatives, i.e. parents of children with disabilities. Gender equality is also ensured as nearly half of persons with disabilities who are Council members are women with disabilities.

¹⁸ "Official Gazette of RS" No. 63/2010. The Rulebook was adopted by the Ministry of Education, Ministry of Health and Ministry of Labour and Social Protection

¹⁹ "Official Gazette of RS" No. 72/09 and 76/2010

69. The Government of the Republic of Serbia has in the drafting of legal regulations, which should address issues of persons with disabilities, directly included representatives of associations of persons with disabilities. During the drafting of LPDPD, LPREPD, and SIPPD, working groups involved in drafting these documents included experts who were proposed by national associations of persons with disabilities, which contributed to the quality of the documents.

Implementation of the Convention in the Republic of Serbia

70. Within its legislative framework, the Republic of Serbia provides the same level of rights as that contained in the Convention.

71. On the territory of the Autonomous Province of Vojvodina, provincial authorities responsible for the issues related to social policy, health care, urban planning and construction, education, and employment, are working on the implementation of relevant provisions of the Convention.

72. According to the Constitution, the Convention on the Rights of Persons with Disabilities is applied on the entire territory of the Republic of Serbia, being a contracting state. However, since on one part of the territory of the Republic of Serbia (the Autonomous Province of Kosovo and Metohija) has, since 10 June 1999, been established civil and security presence under the auspices of the United Nations (UN Security Council Resolution 1244), the Republic of Serbia invites the Committee to require from the United Nations Interim Administration Mission in Kosovo (UNMIK) to provide additional information on the implementation of the Convention on the territory of Kosovo and Metohija, which shall form an integral part of this Report.²⁰

108. 73. Reports of several UN general secretaries, as well as reports of UNESCO, UNDP, OSCE, Council of Europe, Amnesty International, Human Rights Watch, Freedom House, Transparency International and many other organisations, continually point to the widespread and persistent violation of basic human rights of non-Albanian communities in Kosovo and Metohija, particularly Serbs. There are alarming data concerning violation of human rights of residents with disabilities in the Special Institute in Shtime (referred to in paragraphs 75 to 81), for which reason the Committee is invited, in accordance with its competencies, to require from UNMIK to initiate investigation, which shall determine the real situation and fate of social care users in Shtime.

Situation in the Special Institute in Shtimlje²¹

109. 74. Until 1999, the Special Institute for accommodating psychiatrically and mentally disabled persons “Shtimlje”, in a town Shtime in the territory of Kosovo and Metohija, accommodated 243 users of Serbian and other nationalities, about whose destiny there is no reliable or valid data.

110. 75. According to UNMIK data from March 2003, there was the total of 145 persons of Serbian and other non-Albanian nationalities in Shtimlje Institute. The

²⁰ See Annex II – Legal Framework in Kosovo and Metohija

²¹ See Annex II – Situation in the Special Institute in Shtime

Republic of Serbia and the Ministry for Kosovo and Metohija have lists of users which, in accordance with Article 17 of the Convention – Protection of the integrity of the person, and Article 22 of the Convention – Respect for privacy, shall not be an integral part of the Report, but can be submitted to the Committee and other bodies in case of establishing commissions which will investigate the situation in Shtime.

76. Reports of various organisations in different time intervals specify difficulties in the work of Shtime, but also completely different data on the number of persons of Serbian nationality residing in the institution.

77. OSCE Mission in Kosovo (OMIK) invited MDRI (Mental Disability Rights International) to Kosovo and Metohija, as a consultant for the development of new legislation in the field of mental health. MDRI team visited Kosovo and Metohija seven times in the period September 2000 – July 2002, on which occasions research teams visited residential and non-residential facilities for accommodating users with physical and mental disabilities. The largest social care facility visited on that occasion was Shtime, with the capacity of 285 beds. During the visit in 2002, Shtimlje had 230 residents. MDRI in its report stated that it would be logical that care for international standards was taken over by the Ombudsman, which are United Nations, but also specified that UN operations in Kosovo were not at the level of the task placed before them. MDRI also stated that UN actions contributed to unnecessary life-long institutionalisation of persons with psychological disabilities. MDRI emphasises that users are exposed to physical, sexual and psychological abuse, that medical and psychiatric care is inadequate, that there are cases of sexual harassment, exploitation, rape and other forms of violence in Shtime, and that most of people residing in Shtime have no reasons to be institutionalised.

78. MDRI found the following situation in Shtimlje²²:

1. Inhuman and degrading conditions (deprivation, users' inactivity, no privacy, filth, shared clothing, no personal hygiene, the only form of treatment are psychotropic medications which are administered without any professional control, work teams without a psychiatrist, locking up of users);
2. Physical violence and sexual abuse (contents of reports received by MDRI are consistent, therefore, it is possible to conclude that physical violence and sexual abuse are important issues in Shtimlje);
3. Vulnerability of children in Shtimlje;
4. Arbitrary detention in facilities and guardianship;
5. Reinforcing segregated services – services should be based on users' needs and provided in the community (community based services); practice has shown that large facilities are not good for people with intellectual disabilities;

²² Listed points are described in more detail in Annex II – Situation in the Special Institute in Shtime.

6. Right to citizen participation.

79. Herewith is also listed the number of users of Serbian nationality in Shtime, according to reports of international organisations, bodies and institutions for the past ten years, which considerably vary:

- Marec Novicki, ex officio 2/04, published on 5 May 2005 - 105 persons of Serbian nationality: 92 are the citizens of the Republic of Serbia, and others are refugees from Croatia, Bosnia and Herzegovina and Macedonia.
- According to the data from OSCE report, and referring to data of the Ministry of Labour and Social Protection of 11 March 2002, the facility accommodated 230 persons: 135 Serbs, 6 Croats, 5 Macedonians, and 10 Hungarians. 20 children that were in Shtime were accommodated in new faculties in the village Laplje Selo and town Shtime.
- The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) says that since March 2007, two facilities in Shtime have accommodated the total of 146 patients, i.e. the first facility 74 (30 men and 44 women) and the second 72 (39 men and 33 women), without stating their nationality.
- Report from the Press Conference of OSCE Mission in Kosovo of 28 May 2010, states that the total number of residents in Shtimlje was 61 (the figure includes both Serbs and Albanians).

80. In view of extremely different data, and the alarming fact that in 8 years the number of residents has been reduced from 230 to 61, and that there is no clear and precise information on taken measures in the deinstitutionalisation process, it is necessary to carry out a procedure which shall determine the exact number of residents.

Article 5 Equality and non-discrimination

81. Persons with disabilities are able to use laws to protect or achieve their interests on equal terms with others.

82. Employment regulations are based on umbrella non-discrimination legislation – LPD and LPDPD, which in detail regulate non-discrimination in terms of employment.

83. Provisions of the Law on Employment and Unemployment Insurance²³ prohibit discrimination in the field of employment. The Law provides the employer with a right to independently decide on a person to be employed or engaged. At the same time, it determines an obligation for the employer to ensure equal treatment of persons who contacted the employer for an employment interview. Discrimination in the field of employment is prohibited (Article 5), i.e. principles of impartiality were adopted, as well as affirmative actions aimed at the unemployed who have difficulties in finding a job, gender equality and freedom of choice of profession and workplace.

²³ “Official Gazette of RS“ No. 36/2009

84. LPREPD also prohibits discrimination of persons with disabilities. It prohibits PWD discrimination and promotes principles of inclusion in all spheres of social life on equal terms, encourages employment at appropriate positions and in adequate working conditions, as well as equality and gender equality (Article 2).

85. LPD envisages a possibility to file a claim to the Commissioner for the Protection of Equality, and the Law on the Ombudsman provides for a possibility to file a complaint to the Ombudsman.

86. LFES prescribes support measures for children and students with developmental impairments and disabilities (Art. 77 and 98), whereas more detailed implementation conditions are regulated in the following by-laws: Rulebook on additional educational, health and social support to the child and student²⁴ and Rulebook on detailed instructions for determining the right to the individual education plan, its implementation and evaluation.

87. A strategic objective set by SIPPD is to improve the position of PWDs and make them become equal citizens who enjoy all rights and responsibilities. In accordance with established frameworks, the plan is to meet the following general objectives by 2015:

- The issue of the status of persons with disabilities should be integrated in general development plans, with the development of an institutional framework and operationalisation of multisectoral and multidepartmental cooperation on the activities of planning and monitoring policies in this field;
- Establishing effective legal protection with developed and implemented plans for the prevention of discrimination against persons with disabilities, as well as plans for sensitising the society on disability issues;
- Making available social, health and other services based on rules and needs of users in accordance with modern internationally accepted methods of assessment of disabilities and needs;
- Developing measure policies and implementing programs, particularly in the field of education, employment, labour and housing, which to people with disabilities provide equal opportunities and promote independence, personal development and active lifestyle in all the fields;
- Ensuring to persons with disabilities access to built environment, accessible transportation, information, communications and public-oriented services, by developing and implementing the plan for removing barriers and constructing accessible facilities and services;
- Ensuring to people with disabilities an adequate standard of living and social protection.

88. In the achievement of *de facto* equality, an important part make affirmative actions which shall ensure to persons with disabilities efficient legal protection against discrimination, as well as development of measures policy and programs in the field of education, employment, labour and housing.

²⁴ “Official Gazette of RS“ No. 63/2010 and 88/10

89. The forth part of LPDPD prescribes measures for promoting equality of persons with disabilities. Proposed measures were drafted with respect to decisions of UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities. They are a necessary prerequisite and basis for achieving equality of persons with disabilities. The measures represent guidelines and minimum standards which need to be developed according to the laws on social protection, compensatory rights, urban planning and construction, transportation and telecommunications, process of law, education, organisation of cultural and sports activities.

90. LPDPD prescribes an obligation of all authorities of the state, territorial autonomy, and local self-government to take actions in creating equal opportunities for PWDs and to include them and their organisations in such activities (Article 38). This broadly defined obligation shall be implemented in practice through series of laws in the fields such as labour law, social protection, pension and disability insurance, health care, education, access to built environment, information and communications, public transportation, since disability is a social phenomenon that affects virtually every segment of the society. SIPPD is a link in the chain of practical implementation of provisions set out in Article 38 of LPDPD.

91. Affirmative actions of the educational system have been carried out since 2003, but gained significance only with the application of LFES from 2009, and by-laws from 2010, as well as the Law on Higher Education²⁵.

Article 8 Awareness raising

92. Promotion of inclusion in education has been conducted through the partnership with the non-governmental sector, which includes counsellors from school administrations, teachers, professional associations (Teachers' Association of Serbia) as well as through promotional work with teams from DILS (Delivery of Improved Local Services) and EFA (Education for All) projects. Education policy media promotion is carried out through interviews and public appearances of decision makers from the highest level of the educational system.

93. Since PWDs are a vulnerable group, legal provisions were adopted on the basis of SIPPD which define the status of persons with disabilities. In Article 5, the Law on Public Information regulates that the Republic of Serbia, autonomous province and/or local self-governments shall be obliged to provide some means or other conditions for undisturbed exercise of the right of persons with disabilities to public information, and free receiving of ideas, information and opinion.

94. Starting from the objectives determined by SIPPD and legal obligations, the Ministry of Culture, Media and Information Society (MCMIS) supports projects for people with disabilities as part of the annual competition for financing projects/programs in the field of public information.²⁶

95. In 2004, MLSP published a Guidebook on rights of persons with disabilities in a hard copy and in an electronic form. In cooperation with NOPWDS, a revised edition

²⁵ "Official Gazette of RS" No. 76/2005, 100/2007 – authentic interpretation, 97/2008 and 44/2010

²⁶ A table overview of allocated funds is set out in Annex I.

of the Guidebook was published in February 2011, which contains information on the rights set out in the Convention.

95. In 2006 and 2007, MLSP supported a Convention promoting campaign organised by the Center for Independent Living Serbia. The campaign included printing of a brochure on the Convention and organising round tables and panel discussions on rights set out in the Convention, in ten largest cities in Serbia.

97. Lectures on the Convention, given by Dr Damjan Tatić, have been a regular part of the curriculum at the Legal Clinic at the Faculty of Law, University of Belgrade since 2009, whereas the Convention was one of the main topics in the Summer School on anti-discrimination of persons with disabilities, held at the Faculty of Law, University of Belgrade, 20-24 September 2010.

98. One of LPREPD's objectives is to eliminate prejudices about abilities and capabilities of PWDs, and to take incentive measures aimed at PWDs' inclusion in all spheres of social life through their involvement in the labour market. Activities carried out in terms of this also include promotion of equal opportunities, monitoring effects of labour and social inclusion, as well as cooperation with all stakeholders who can contribute to promoting employment and inclusion of PWDs. To perform these activities, institutions competent for the development and implementation of the employment policy for PWDs, the Ministry of Economy and Regional Development (MERR) and NEA have, since entry into force of LPREPD, participated and/or organised over 80 panel discussions, round tables and conferences, with an aim to raise awareness of labour market stakeholders and citizens in terms of rights and needs of persons with disabilities.

99. As part of the EC Program for employment and social solidarity and "New Skills for Persons with Disabilities" project, two regional conferences were held on the topic "Importance and Role of a Partnership in the Employment of Persons with Disabilities", where over 220 partners (employers, associations) were present.

100. MERR and NEA organised designing, printing and distribution of appropriate brochures such as "Support to Employers in Employing Persons with Disabilities", "Professional Rehabilitation of Persons with Disabilities" and "Equal Opportunities in the Labour Market", all for the purpose of informing the public about the position of PWDs in the labour market and opportunities for professional rehabilitation and employment.

101. Also, there is a continuous cooperation with institutions for professional rehabilitation and employment of PWDs, PWD associations, employers and other entities, for the purpose of raising awareness of both employers and PWDs about employment opportunities and rights and obligations concerning work and employment.

102. As part of NEA was established the Center for Professional Rehabilitation and Employment of Persons with Disabilities. Through work with PWDs (by motivating them to join the labour market, vocation and assessment of work capacity, gaining and strengthening competencies, knowledge, abilities and skills through training programs), employers (by promoting socially responsible operation, sensitising

employers and working environment to the importance of employing PWDs (from the society and individual point of view)), selection of candidates and provision of other forms of professional and counselling assistance to employers and other stakeholders, the aim is to achieve competitive employment of PWDs and functional operational and social integration. The necessity to further strengthen capacities of the Center (meeting organisational, human resource, spatial and technical, operating and program standards), as well as to ensure accessibility for the larger number of users of the stated services, requires development of a network of centers at the regional level in the following period.

103. Part of the projects of the Ministry of Health concerning improvement of the primary health care level concerns sensitisation of health care professionals and local self-government for the purpose of improving knowledge and communication skills of persons with disabilities, as well as improving and strengthening home care services and visiting nurse services, which are crucial for providing aid to persons with disabilities.

104. The former Ministry of Human and Minority Rights, in cooperation with the Office of UN Resident Coordinator in Serbia and OSCE Mission in Serbia, in July 2010, organised a round table with the theme “Reporting on the implementation of the UN Convention on the Rights of Persons with Disabilities”. The round table participants were PWD associations, associations of parents of children with disabilities, relevant state authorities and media. Participants were, *inter alia*, presented with, and made available in an electronic form, the material relating to the process of reporting to UN treaty bodies, and the form and contents of the report, as well as with determining competencies of UN treaty bodies for receiving and examining individual complaints.

105. The Ministry for Human and Minority Rights, Public Administration and Local Self-Government, Directorate for Human and Minority Rights (MHMRPALSJ) published on the website the text of the Convention and optional protocol, and a simplified and abridged version of the Convention²⁷.

Article 9 Accessibility

106. The fifth objective of SIPPJ is to ensure access for PWDs to built environment, transportation, information and communications, and public-oriented services.

Built environment

107. The Law on Road Traffic Safety²⁸ prescribes rules that provide access for persons with disabilities, on equal terms with others, to the built environment.

Road traffic includes installation of equipment for blind and visually impaired persons, which shall serve to mark the space in public transportation and pedestrian areas, entrances to facilities, to enable movement in buildings for public use, as well as

²⁷ Serbian version was prepared by the Association Society Orientation, funded by Handicap International, the original document was created by “Easy Read” Service @ Inspired Services, in August 2007

²⁸ “Official Gazette of RS” No. 41/2009 and 53/2010

installation of special signalling devices which shall ensure undisturbed and oriented movement of blind and visually impaired persons.

108. Equipment used for marking roads for the movement of the blind and visually impaired is the following:

- Tactile strips with clearly marked path ends;
- Tactile pedestrian push-buttons on traffic light poles;
- Audible signals for guiding;
- Audible crossing signals, and
- Other technical means of similar purpose.

111. Apart from the equipment enabling movement of the blind and visually impaired, additional aids may be installed like handrails, tactile guidance and other similar tools that will enable blind and visually impaired persons to move and orient themselves better and more easily in public areas or in public facilities.²⁹

112. According to the Law on Air Transportation³⁰ from 2010, the Rulebook on Persons with Disabilities and Persons with Reduced Mobility in Air Transportation³¹ was adopted, which contains the Regulation (EC) No. 1107/2006 of the European Parliament and Council of 5 July 2006, concerning rights of persons with disabilities and persons with reduced mobility when travelling by air.

113. In several cities, individuals and PWD local organisations used LPDPD provisions to file claims against competent authorities which failed to enable accessibility. LPDPD prohibits discrimination in public transportation on the basis of disability. Discrimination is considered to be the following:

- Refusal to carry the passenger with a disability;
- Refusal of providers of public transport to provide physical assistance to the passenger with a disability, if without such assistance the disabled cannot use the transportation service, and if the provision of service does not jeopardise transport safety;
- Determining unfavourable transport conditions for passengers with disabilities, in particular payment terms, except to the extent such conditions are reasonable due to technical requirements or necessary increased costs for passengers with disabilities.

114. Court proceedings involving discrimination on the grounds of disability are lead against a national airline company on the basis of a claim filed by a women passenger with a disability. Preparations for amendments to the rulebook on the provision of services to passengers with disabilities when travelling by air are under way.

115. Amendments to the Law on Spatial Planning and Construction (LSPC), which were, together with PWD organisations, initiated by MLSP in April 2006, prescribe an obligation for investors to adhere to the standards of accessibility in construction of new facilities. A fine is prescribed for offenders.

²⁹ Art.100 to 102 of the Rulebook on Traffic Signalisation “Official Gazette of RS” No. 26/2010

³⁰ “Official Gazette of RS” No. 73/2010 and 57/11

³¹ “Official Gazette of RS” No. 02/2011

116. When adopting the new Law on Spatial Planning and Construction³², a care was taken of these positive achievements. LSPC prescribes that public and business facilities, residential and combined residential and office buildings with ten or more apartments must be designed and constructed in the manner that persons with disabilities, children and elderly persons can freely access, move, stay and work in them (Article 5).

117. Works related to elimination of barriers for persons with disabilities are executed on the basis of a decision approving execution of these works which is issued by the authority competent for granting the building permit. A request for initiating offence proceedings is submitted by the competent planning inspector.

118. Accessibility and a universal design have been introduced to the curriculum of the Faculty of Technical Sciences at the University in Novi Sad and at the Faculty of Architecture, University of Belgrade.

119. The by-law³³ further develops planning and technical conditions (for planning of public transportation and pedestrian areas, entrances to facilities and design of buildings (residential, facilities for public use, etc.)), and special devices within those buildings, which shall enable free movement of children, elderly, physically challenged and persons with disabilities.

120. LSPC prescribes a fine in the amount of RSD 300,000 for an offence, i.e. violation of the standards of accessibility by a company or other legal entity which is an investor. A responsible person in the company or other legal entity shall be punished for this offense with a fine in the amount of RSD 10,000 to 50,000. There are no special provisions prescribing that collected fines be specifically aimed at removing barriers.

Education

121. LFES regulates the right to education for all, by defining general principles and objectives of education in the Republic of Serbia (Art. 2 to 4).

122. Since LFES prescribes an equal right and access to education without discrimination, it also prescribes penalties in case of violation of the right. In accordance with the concept of the educational system, local self-government shall be obliged to ensure access to all facilities in its territory for any child and/or student. The right to accessibility can also be ensured by referring the child/student to IC to be able to exercise the right.

³² “Official Gazette of RS” No. 72/2009

³³ Rulebook on conditions for planning and design of facilities related to free movement of children, elderly, physically challenged and persons with disabilities. Published in “Official Gazette” No.

Culture and provision of information

123. The Law on Public Information³⁴ prescribes an obligation to make public information available to persons with disabilities.

124. On 27 February 2007, MCMIS adopted Guidelines for the implementation of activities ensuring conditions for the free use of cultural institutions' facilities and programs by PWDs, on the basis of Article 38 of LPDPD.

125. In accordance with adopted guidelines, MCMIS regularly co-finances work and activities of the Union of the Blind of Serbia in the field of cultural heritage.

126. In accordance with the E-Government Strategy in the Republic of Serbia for the period 2009-2013, electronic public services are provided in the manner that fully ensures simple, understandable and free access for all users, including persons with disabilities.

127. In early December 2010, the National Information Technology and Internet Agency of Serbia developed "Guidelines for web presentation of state administration authorities v.3.0" which recommend conformity of state administration web sites to the World Wide Web Consortium Web Content Accessibility Guidelines (WCAG) 2.0.

128. Conclusion of the Government of 23 December 2010, states that state administration authorities shall be responsible for conforming their web sites to the "Guidelines for web presentation of state administration authorities" within 6 months from the date of its adoption. The Conclusion also assigns to the National Information Technology and Internet Agency of Serbia a responsibility to assess conformity of state administration web sites with the Guidelines within 2 months from the deadline for conducting the conformity, and to inform the Government on this.

129. National e-Government Portal, which represents a unique outlet for e-services of all state authorities, is conformed with (WCAG) 2.0. guidelines, and Portal upgrading includes implementation of text-to-speech software for the entire Portal contents, as well as optimisation of the overview of Portal contents by screen readers, i.e. optimisation of navigation and introduction of shortcuts for parts of contents.

130. The Law on Public Procurement from 2008 envisages an obligation of a bidder for granting funds from public procurements to support project documentation with evidence of compliance with technical standards of accessibility of goods and services to persons with disabilities.

Employment

131. PWDs are employed under general and under special conditions. Employment under general conditions is considered to be employment with an employer without adjusted job(s) and workplace.

³⁴ "Official Gazette of RS" No. 43/03, 61/2005,71/09,89/10 - amended by the Constitution of Serbia and 41/11-amended by the Constitution of Serbia.

132. Employment under special conditions is considered to be employment with an employer with adjusted job(s) and workplace.

133. An employer hiring a PWD under special conditions may exercise the right to reimbursement of temporary costs.

134. The Rulebook on detailed conditions, criteria and standards for conducting measures and activities of professional rehabilitation prescribes that the measures and activities of professional rehabilitation related to vocational training, additional training, retraining and programs for acquiring, maintaining and improving work, and combined work and social skills and abilities of persons with disabilities; education and training seminars for employers, experts in training and professional rehabilitation of persons with disabilities and other persons; recommendations and training in the application of adequate technical and technological solutions to improve efficiency of persons with disabilities in learning and work, as well as to support services, are carried out by providers of professional rehabilitation, if the following are met:

- Construction and technical standards (in terms of infrastructure, in terms of functionality and other conditions prescribed by planning, construction, technical, sanitary, fire escape and regulations on environmental protection and safety and health at work);
- Standards in terms of skilled workers;
- Standards in terms of equipment (they imply that training facilities, depending on their purpose and work capacity of persons with disabilities, have equipment that matches the type of training conducted, and that can be easily maintained; they imply appropriate furniture, machines and tools, computers, devices and materials for practical training, in compliance with the number of participants and type of disability);
- Standards in terms of contents of a training program.

135. The largest number of today's jobs is not accessible, because their designing did not include the "design for all" concept. It should also be noted that adjustment is not always necessary nor an argument is sufficient or circumstances that cannot be overcome when hiring persons with disabilities.

136. Unemployed PWDs registered in NEA records have the same accessibility and can equally use services as any other unemployed person.

Health care

137. In addition to the aforementioned principle of fairness in health care, LHC is based on the principle of accessibility, principle of comprehensiveness and principle of continuity. The principle of accessibility of health care is achieved by providing adequate health care to citizens of the Republic of Serbia which is physically, geographically and economically accessible, i.e. culturally acceptable, particularly at the primary health care level. The principle of comprehensiveness of health care is achieved by including all citizens of the Republic of Serbia to the health care system by implementing integrated health care measures and procedures which include health promotion, disease prevention at all levels, early diagnosis, treatment and rehabilitation.

138. The principle of continuity of health care is achieved through total organisation of the health care system which has to be functionally linked and coordinated across levels, ranging from the primary through secondary to tertiary health care levels, and which provides continuous health care to all citizens of the Republic of Serbia of all ages. All the above mentioned principles also apply to persons with disabilities.

139. The Ministry of Health has a budget line for funding associations' projects for health promotion. In 2008, the Ministry of Health funded six projects of various associations of persons with disabilities, and in 2009, it supported "Iz Kruga" organisation in the amount of RSD 220,000.00. Most health care institutions, including institutions at the primary health care level (health care centers), have removed physical barriers with the construction of ramps for persons with disabilities.

Article 10 Right to life

140. The Republic of Serbia refers to views stated in paragraphs 66, 486 and 500 of the Second Periodic Report on Implementation of the International Covenant on Civil and Political rights (CCPR/C/SRB/2).

141. The stated provisions clearly indicate that the Constitution of the Republic of Serbia recognises and protects the right to life and survival of all citizens of the Republic of Serbia on equal terms with others, whereas in terms of the fact that human life is inviolable, no person, including a person with a disability, can be subjected to arbitrary deprivation of his/her life.

142. The right to life is guaranteed to persons with disabilities on an equal footing with others. Legal norms treat as a criminal offense any breach of exercising the right to life by persons with disabilities in the same manner they do that with any other individual.

Practice

143. The Republic of Serbia is making efforts to eliminate problems related to PWDs who are temporarily or permanently accommodated in facilities within different systems (social protection, health care and justice). These problems are related to housing, capacities, cases of violence among users, improper use of medications, diet, lack of program activities or adequate medical treatment. This is supported by civil society organisations.

144. It is necessary to draw more attention of the state to the cases which resulted in unexpected death of residents, particularly when a deceased has no family or when relatives have no interest in finding out causes of death. For example, in October 2010, a violent death of an immobile teenager was investigated by the Ministry of Labour and Social Policy and prosecution after media's attention. An internal investigation identified responsibilities of the director of the facility who was, as a result of this, replaced. Prosecution investigation results were still unknown at the moment of compiling this report, and possible trials are yet to commence.

145. After a visit to a social care facility in Stamnica, the Annual Report of the Ombudsman 2009 noted that statistics on the number and causes of death were not kept in the visited facility.

Article 11 Situations of risk and humanitarian emergencies

146. The Law on Police³⁵ prescribes emergency police actions for eliminating immediate hazards to people and property when actions cannot be taken by other competent authorities in a timely manner, as well as conditions for implementation of orders.

147. The Law on Emergencies³⁶ prescribes principles of protection and rescue.

148. In the end of 2010, there were 74,944 refugees and 210,148 internally displaced persons residing on the territory of the Republic of Serbia.

149. The Law on Refugees³⁷ prescribes that temporary housing and food assistance are provided by the Commissariat for Refugees, taking into account, to the maximum extent possible, the best interest of refugees that are accommodated or will be accommodated in the collective center (Article 8). Persons who, due to their mental and physical condition (the elderly, sick and disabled), cannot benefit from the collective center, the Commissioner shall, on the basis of the decision of the Center for Social Work, provide accommodation in a social care facility, other form of social care or a family.

150. Internally displaced persons, as citizens of the Republic of Serbia, exercise all rights and forms of protection as all other citizens.

151. In accordance with the National strategy for addressing issues of refugees and internally displaced persons in the Republic of Serbia³⁸, a range of programs and projects are being implemented with an aim to resolve housing issues for refugees and internally displaced persons. The criteria for inclusion in the programs, which are defined together with UNHCR, give particular priority to family households having persons with disabilities.

152. A special form of social protection represents social housing in supportive environment which, in addition to the living space, also provide additional financial and social support to families of persons with disabilities.

153. In accordance with its Third mission established by the Defence Strategy of the Republic of Serbia “Support to the Civilian Population in Countering Security Threats” i.e. task 3.2. within the mission “providing aid to the civilian population in case of natural disasters, technical, technological and other disasters”, the Army of the Republic of Serbia has engaged necessary human and material resources in

³⁵ “Official Gazette of RS” No. 101/2005 and 63/2009 and 92/11

³⁶ “Official Gazette of RS” No. 11/2009 and 92/11

³⁷ “Official Gazette of RS” No. 18/92, “Official Gazette of RS” No. 42/2002 – amended by the decision of the Federal Constitutional Court and “Official Gazette of RS” No. 30/2010

³⁸ “Official Gazette of RS” No. 17/2011

providing aid to the violated civilian population, as well as repairing damage caused by cases of emergency.

Article 12 Equal recognition before the law

154. The Republic of Serbia refers to the views set out in paragraphs 147 to 154 of the Second Periodic Report on Implementation of the International Covenant on Civil and Political Rights (CCPR/C/SRB/2).

155. Domestic legislation contains provisions and decisions concerning work capacity and taking guardianship measures which need to be reformed and adjusted to provisions and obligations under the Convention. Guardianship of persons deprived of work capacity in the Republic of Serbia is regulated by the laws which have not been significantly amended for a long period of time, and most of them were adopted in the period when persons with disabilities (mentally ill and mentally disabled adults and elderly persons) were excluded from society. In particular, changes of the rules governing the procedure of work capacity deprivation are very slow, i.e. changes in the law on extra-judicial proceedings.

156. The standpoint of legislators on adopting regulations which govern work capacity deprivation and taking guardianship measures, was that persons should be deprived of their work capacity and put under guardianship, if they are, for their mental disability or for other reasons, unable to take care of their own interests. This standpoint has been superseded in contemporary practice and theory. It is based on the view that PWDs are capable of taking care of themselves and, if there are life situations where they need support, the state shall be obliged to provide them such support, including application of guardianship measures, which must be carefully and selectively provided and which in no manner may impair rights and legal security of such persons.

157. Legal norms governing procedures for elimination of work capacity deprivation and guardianship procedure, are not unified within a single legal act, moreover, they are part of different laws and rulebooks. The main rules of the procedure are contained in provisions of the Law on Extra-Judicial Proceedings and Family Law. Somewhat vague and incomplete formulations in the laws affect the procedure in practice. According to civil society organisations, judges have too much discretion in the work capacity deprivation procedure. However, this cannot be accepted in its entirety. In these procedures, judges primarily act by default and according to findings and opinions of experts who determine whether a person can or cannot protect his/her rights and interests, depending on his/her mental health at the first place. Findings of court experts which form a basis of a court decision on work capacity deprivation are diagnostic in their nature and do not contain an assessment of remaining person's capacities to protect his/her own rights and interests with or without support. In respect to this, it has been estimated that, first of all, adoption of a special law on mental health care (by the Ministry of Health), which would also regulate assessment of the status and needs of persons with mental health problems, would contribute to the wholesome implementation of the Recommendation (99) 4 of the Committee of Ministers of the Council of Europe. The Ministry of Labour and Social Policy has in terms of this, through supervision of professional work of guardianship authorities and provision of technical assistance to experts in

guardianship authorities, provided them with specific instructions for the purpose of adequate application of guardianship measures for persons who are unable to take care of their own rights and interests. Therefore, any procedure for the protection of such persons require evaluation of their abilities on the basis of which an assessment shall be made in terms of whether and to what extent it is necessary for a person to be deprived of his/her work capacity. All procedures must previously obtain an opinion of the person on the appropriateness of initiating such proceedings, and obtain an opinion about the person whom he/she wishes to be his/her guardian.

158. A major reform of the legal system in the Republic of Serbia is underway currently, and one of priorities is persons with disabilities. This has also been indicated by the adoption of a number of laws including LPDPD, Family Law, and LPREPD. These laws point to the fact that the Republic of Serbia increasingly recognises rights of persons with disabilities. However, legal norms governing guardianship and work capacity deprivation have not been modified and represent a certain barrier in respecting PWDs' rights. The Republic of Serbia has clearly committed to improve the regime of work capacity deprivation and, consequently, strongly supports any initiative and activities of associations in this field.

159. Until relevant legislative initiatives concerning amendments to the Law on Extra-Judicial Proceedings³⁹ in particular have been implemented, MLSP is taking measures required for the implementation of the Recommendation (99) 4 of the Committee of Ministers of the Council of Europe, to the highest extent possible, in organising guardianship of adults persons deprived of work capacity.

Practice

160. According to case law analyses of civil society organisations, case law indicates that judges generally rely on the diagnosis of a mental and/or intellectual disability made or confirmed by court experts (neuropsychiatrists), without specific examples or without establishing a clear connection with person's disabilities in everyday life. In practice, the hearing is usually not conducted out of court which is envisaged by the law to ensure participation of institutionalised persons in the process.

In terms of guardianship, although there are safeguards in the law, problems have been detected in practice in terms of control of guardians in performing their duties. In this sense, it is not possible to ensure adequate protection of rights of persons placed under guardianship. Moreover, there is a serious omission in the legislation which results in apparent conflicts of interests in cases when a guardian is a person employed in the center for social work (direct guardianship), and the center retains the role of monitoring guardian's performance of obligations. The applicable Family Law (FL) determines a mechanism of control of guardianship: Supervision of a Guardian - Article 142 of FL, Complaint on Guardian's Work – Article 335 of FL, Complaint on Work of Guardianship Authority – Article 338 of FL. Certainly, it should be pointed out that the Family Law also prescribes an obligation of guardian's responsibility (Article 141) that the guardian shall be responsible for damage caused by the person placed under guardianship in the course of performing guardianship activities, unless he/she proves

³⁹ "Official Gazette of RS" No. 25/82 and 48/88

that damage was caused without his/her fault. Culpability of the guardian shall exist when he/she caused the damage intentionally or by gross negligence. The responsibility for the damage shall be jointly born by the guardianship authority.

Article 13 Access to justice

161. The Civil Procedure Law⁴⁰ (CPL) prescribes that a party to the proceedings may be any natural or legal person. The party that has full legal capacity may take actions in the proceedings on its own.

162. The Criminal Procedure Code⁴¹ (CPC) prescribes that the defendant who is mute, deaf or unable to defend himself/herself successfully, must have a lawyer at the first hearing. CPC prescribes a special way of communication with such persons not only through an interpreter but also by asking questions and providing answers in writing.

163. As for children and young people with disabilities, provisions of CPC and CPL as well as provisions of the Law on Juvenile Offenders and Criminal Protection of Minors⁴² are implemented.

Practice and statistics

164. On 5 September 2007, the Municipal Court in Šabac issued the first instance verdict in the case of discrimination based on disability.

165. According to records of Ministry of justice, 23 court proceedings were conducted or are still in progress in the period being reported, in relation to discrimination of persons with disabilities. The number of proceedings conducted under the jurisdiction of the Appellate Court in Belgrade is 7, in Novi Sad 15, and in Kragujevac 1. In this period, there were no complaints to the supervision of operation of courts related to discrimination of persons with disabilities in court proceedings.

166. After examining the criminal registry of the Supreme Court of Cassation, it was determined that there were no cases in the Court Criminal Division during the reporting period and, consequently, no proceedings related to cases of discrimination of persons with disabilities. After examination conducted in the Case Law Division of the Supreme Court of Cassation, it was determined that, in the period for which data were required, there was one case in the Civil Division related to discrimination of persons with disabilities. There were no complaints in the complaint proceedings in the stated period related to discrimination of persons with disabilities in court proceedings.

167. In 2010, the Judicial Academy organised 7 anti-discrimination seminars. Participants were judges and prosecutors from primary and higher courts and public prosecutors' offices. In 2010, the Judicial Academy developed an anti-discrimination training curriculum for judges and prosecutors, in accordance with LPD and

⁴⁰ "Official Gazette of RS" No. 72/2011

⁴¹ "Official Gazette of RS" No. 70/2001 and 68/2002 and "Official Gazette of RS" No. 58/2004, 85/2005, 115/2005, 85/2005, 49/2007, 20/2009, 72/2009 and 76/2010

⁴² "Official Gazette of RS" No. 85/2005

international standards, in particular standards of the Council of Europe and European Court for Human Rights, adopted together with drafted working material as part of Academy's Training Program. Additionally, part of the curriculum was also included in the Initial Training Program conducted with the first generation of participants.

168. There are 9 full-time court interpreters for the sign language. Out of this number 5 work in Belgrade, 1 in Niš, 1 in Novi Pazar, and 1 in Kragujevac. The number of proceedings that involved a court interpreter either for sign language or for interpreting signs of blind persons, in the reporting period, is 47. There are 36 ramps and accesses to courts in Serbia. Out of this number, customised access for wheelchair users have all four Appellate Courts, 20 primary courts and 12 higher courts.

169. The building in which, in addition to the Supreme Court of Cassation, are also seats of the Commercial Appellate Court, Administrative Court and Appellate Court in Belgrade, has a separate entrance customised to PWDs' needs and standards, as well as customised access to the official entrance to enable the use of entrance by persons with disabilities.

Enforcement of Criminal Sanctions

170. The Law on the Enforcement of Criminal Sanctions⁴³ regulates the right of a convicted person with special needs to the accommodation adjusted to the level and type of his/her special needs (Article 66, paragraph 3).

171. According to the data of the Administration for Enforcement of Criminal Sanctions, there were no complaints in the reporting period related to PWD discrimination in facilities for execution of criminal sanctions.

172. For the purpose of providing appropriate accommodation for persons with disabilities, and in accordance with the Law on the Enforcement of Criminal Sanctions and the Rulebook on house rules in penal-correctional facilities and district prison, all institutions within the Administration for Enforcement of Criminal Sanctions take into account to ensure conditions for prison sentences customised to the needs of persons with disabilities.

173. Also, in accordance with available budget resources and architectural and spatial circumstances, these conditions have constantly been improved. For this purpose, the District Prison in Smederevo, District Prison in Negotin, District Prison in Zrenjanin and Penal Correctional Facility in Šabac have renovated rooms with accessories for persons with disabilities. In addition to this, toilet wheelchairs were purchased in the District Prison in Vranje. The District Prison in Belgrade is in the process of renovating special rooms with a customised bathroom and toilets, and new specialised hospital beds and orthopedic devices were ordered. Additionally, the District Prison in Kraljevo is renovating a separate toilet, and the toilet in the penal-correctional facility in Sombor is equipped with an aid for performing physiological needs of persons with disabilities.

⁴³ "Official Gazette of RS" No. 85/2005, 72/2009 and 31/2011

174. In addition to efforts made to ensure convicted persons with disabilities accommodation conditions which suit their specific needs, they have the same health care as citizens at large. The health care service within a facility in which they are located provides complete medical records of the convicted person with a disability, which allows facility's physicians to enable them complete medical care that is customised to their specific needs. In addition to medical treatment, there are also psychiatrist and psychologist services available to persons with psycho-social disabilities, as well as special vocational therapy programs, different forms of workshops (depending on the nature of disability and estimated needs and capacities). Convicted persons to whom required medical care cannot be provided in the facility in which they are located, are referred for treatment to the Special Prison Hospital in Belgrade or to another highly specialised health care facility within the Ministry of Health. The Special Prison Hospital has a psychiatric ward, which has recently been renovated.

175. Persons with disabilities are included in the activities organised in the facility, which are, depending on their needs and capacities, customised to each particular case, including engagement in work, use of free time for recreation and art and other workshops. Aid and assistance in satisfying everyday needs of persons with physical disabilities in prisons are provided by competent services of the facility, particularly the health care service.

176. After release from serving a sentence, all persons, including persons with disabilities, are provided with assistance after serving a sentence by competent centers for social care according to persons' place of residence.

177. In the penal-correctional facility in Sremska Mitrovica was recorded that one convicted person with a disability referred to the Provincial Ombudsman complaining that he had difficulties in maintaining personal hygiene and performing other daily activities, which was the result of the fact that he was blind. Facility's staff made maximum efforts to enable the convicted person to more easily perform his daily activities, and security staff members were ordered to control, on a daily basis, whether he had taken food, the quality and quantity of food, and to report daily to their superiors on any irregularities which the convicted person could have faced due to the fact he was blind.

178. Furthermore, the District Prison in Novi Sad received an Ombudsman's recommendation to accommodate a convicted disabled person requiring a wheelchair to a separate bedroom on the ground floor, with a toilet and toilet facilities customised to his needs, with a door of appropriate width, and an access ramp for his undisturbed movement with the wheelchair inside the facility and for occasions of going outside of closed areas. With respect to this, the Administration was informed by the facility that the convicted person was accommodated in a room on the ground floor, with a toilet to which he may enter with the wheelchair, and that the procedure for providing financial means for other recommendations are under way.

179. A new penal-correctional facility in Padinska Skela is near completion of its construction, in which special attention has been paid to the conditions of accommodation of persons with physical disabilities, therefore, special cells have been adjusted to their needs, and this practice shall be continued in the renovation of

existing and/or planning of construction of new facilities for the execution of criminal sanctions.

Treatment of persons with disabilities by police officers

180. Article 21 of the Constitution of the Republic of Serbia prohibits any discrimination, direct or indirect, on any grounds, particularly based on race, gender, nationality, social origin, birth, religion, political or other opinion, property status, culture, language, age and mental or physical disability.

Article 35 of the Law on Police states that an authorised officer while practicing police powers must act impartially, provide equal legal protection to everyone and act without discriminating persons on any grounds. In practicing police powers, an authorised officer must treat everyone humanely and with respect for their dignity, reputation and honour, and of other fundamental rights and freedoms.

In terms of application of force, the Law on Police⁴⁴ in its Article 89, paragraph 3 and Article 90, paragraph 4, limits the use of specific forms of use of force on persons with disabilities, therefore the use of a tactical baton and handcuffs is allowed only in case any of those persons directly endangers human lives.

In accordance with the Law on Police and Rulebook on the procedure for resolving complaints, the Internal Control Sector in the Ministry of Internal Affairs (MIA) resolved complaints of, *inter alia*, persons with disabilities pointing to unprofessional treatment by police officers. Statements from individual complaints were directly verified and some complaints were forwarded to the further competence of regional police departments. In direct verification of statements from complaints, police officers in the Internal Control Sector fully took into consideration health of complainants and they visited their apartments, i.e. houses, to conduct interviews and collect necessary information. Complainants are properly and timely notified on the results of conducted verifications. The procedure of filing complaints against police activities has been facilitated by distributing promotional materials like brochures, leaflets and forms with information for citizens on how to file a complaint, i.e. complaint against work of police officers. This material is also available on the web page of the Internal Control Sector, at MIA's website, therefore, citizens have an opportunity to submit their complaints via the internet.

181. A project for permanent education of police officers about the use of deaf people's sign language was initiated in order to create conditions for communication of police officers with deaf people.

Independent state authorities

182. The Republic of Serbia points to the information specified in para. 21 to 22 of the Second Periodic Report on Implementation of the International Covenant on Civil and Political Rights CCPR/C/SRB/2.

183. It should be emphasised that the Ombudsman is authorised to control legality and regularity of prisons, and that it has the right to conduct unannounced visits and to access to all premises, the right to unsupervised conversation with all employees

⁴⁴ "Official Gazette of RS" No. 101/2005,63/09 – amended by the Constitution of Serbia and 92/11

and all persons who are in prison or in custody, and the right to inspect all documents, regardless of a degree of confidentiality.

184. At the proposal of the Ministry for Human and Minority Rights, Public Administration and Local Self-Government, and according to the Law on the Amendments and Additions to the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 28 July 2011, the role of an independent national mechanism for the prevention of torture was appointed to the Ombudsman. The stated Law binds the body to conduct visits, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, in any place under the competence or authority of the Republic of Serbia, where persons deprived of liberty are or may be located. The Ombudsman shall in its operation as an independent national mechanism for the prevention of torture cooperate with the Provincial Ombudsman and associations whose Statute envisages an objective of promotion and protection of human rights.

185. According to annual activity reports, there is an increased number of complaints submitted to the Ombudsman by persons with disabilities, which is expected, since the body has built a good reputation in time. In 2008, the Ombudsman acted on the basis of the total of 14 complaints of persons with disabilities, and in 2009, on the basis of 75 complaints of these persons. In 2009, the Ombudsman initiated, at its own initiative, proceedings in 3 more cases of violation of rights of persons with disabilities, and continued with 10 proceedings initiated in 2008. Most of the complaints concerned violation of rights in the field of social protection - 11, labour relations - 6, and discrimination - 6. In 25 cases there were no grounds for the complaints, in 12 cases they were rejected, in 9 cases withdrawn, and in 3 cases proceedings were suspended. The Ombudsman made a recommendation in only one case.

186. The Commissioner for the Protection of Equality, established on the basis of LPD, *inter alia*, receives and reviews complaints against violations of provisions of the Law, provides complainants with information on their rights, files claims to the court with consent of a discriminated person, monitors implementation and initiates an amendment to the law, as well as an amendment to other legal texts related to discrimination and human rights. The Law determines procedures before the Ombudsman, as well as the possibility of providing judicial protection. In previous work, the Commissioner for the Protection of Equality resolved 10 complaints based on disability.

Article 14 Liberty and security of the person

187. The Constitution of the Republic of Serbia guarantees the right to freedom and security, and also prescribes the method of treatment of a person deprived of liberty, as well as special rights in case of deprivation of liberty without a court's decision.

188. The Law on Police prescribes MIA's obligations to create conditions for police operation, *inter alia*, organisation and implementation of internal control, and obligations of police officers. The police officer shall, in performing his/her duties, serve the community and protect all persons against illegal actions, and shall be responsible to always act professionally, responsibly and humanely, and to respect

human dignity, reputation and honour ever person and his/her other rights and freedoms (Article 13, paragraph 2).

189. In the beginning of 2010, 28 persons with disabilities were serving imprisonment sentence in the Republic of Serbia, and only persons whose disability may be supported by necessary conditions are held in prisons, according to the data of the Administration for the Execution of Criminal Sanctions of the Ministry of Justice. If such conditions cannot be fulfilled, these persons are referred to the Special Prison Hospital in Belgrade. If the Special Prison Hospital has no adequate conditions either, PWDs are referred to a specialised facility that can respond to their needs, and costs are borne by the Administration for the Execution of Criminal Sanctions.

190. According to the findings of the deputy ombudsman for the rights of persons deprived of liberty, the number of complaints received by the Ombudsman from PWDs serving an imprisonment sentence or who are in detention, is not large, however, during control visits to prisons, it was observed that prison authorities have made some efforts to enable persons with disabilities appropriate accommodation and satisfaction of their needs.

Practice

191. Deprivation of persons with disabilities of liberty (except by the Criminal Code) is permitted in accordance with provisions under Art. 44 of the Law on Health Care, and provisions under Art. 45 to 55 of the Law on Extra-Judicial Proceedings (LEJP). These provisions regulate the procedure for involuntary, i.e. forced keeping in a psychiatric facility. A prerequisite is that a medical doctor and/or psychiatrist and/or neuropsychiatrist evaluate that the nature of a mental illness is such that it may jeopardise patient's own life or lives of others as well as property (Art. 44, paragraph 1 of LHC).

192. Civil society organisations suggest that LEJP reduces the subject of proceedings by letting the court to decide on further keeping of a person in the facility, and not on the legality of initial keeping of the person (from the moment of reception to the moment of submitting a report on reception to the court). Accordingly, current laws do not prescribe that required notice to the court on accommodation of persons in facilities must include reasons for restricting person's liberty. They prescribe that a court notice must contain information on the received person, person who brought the patient to the facility and, if possible, about the nature and level of disease with appropriate medical documentation (Article 46, paragraph 3). This leaves a lot of space for making arbitrary decisions of the court, but also opens a door to the possibility to act according to hidden motifs of other persons who would like a person to be held in an institution, against his/her own will. If health of a person improves to the extent that there is no reason to keep the patient in the facility, the court shall have a discretionary right to release the patient to liberty (article 52.). The Law does not oblige the court to hear, not even to see the person whose hospitalization is being decided on. In cases of re-deciding on the status of hospitalisation, the court shall be obliged to obtain findings of two medical experts and, if possible and not harmful for persons' health, hear the person (Article 54). It is often the case in practice that when a person who voluntarily registered in the facility withdraws his/her consent to hospitalisation, the medical staff shall not initiate a legally required procedure of

forced restrain (court notice) – exposing a person to treatment without application of relevant provisions which would guarantee protection of rights in such cases.

193. Since ratification of the Convention, there were no recorded cases in which legal proceedings were conducted against employees in competent authorities and services due to unlawful deprivation of liberty of persons with disabilities or restriction of free movement in any sense (Article 132 of the Criminal Code). Accordingly, there were also no cases of sanctioning.

Article 15 Freedom from torture or cruel, inhuman or degrading treatment or punishment

194. The Constitution (Article 25) determines that physical and mental integrity is inviolable and nobody may be subjected to torture, inhuman or degrading treatment or punishment, nor subjected to medical and other experiments without their free consent, which applies to all persons, including persons with disabilities.

195. Legal protection of persons with disabilities from abuse is guaranteed with the Criminal Code (Article 137). In practice, protection of persons with disabilities from torture, cruel, inhuman and degrading treatment or punishment, is a big challenge in institutionalised care facilities. Attempts were made to provide protection to adults and children with disabilities under institutional care, however, these attempts failed to actually protect dignity of these persons. Reasons may be found in the nature of the institutional environment which is subject to violations, but also in specific deficiencies in the design and/or implementation of the stated protection measures.

196. The Law on Police envisages the following principles: impartiality, non-discrimination, humanity, respect for human rights and providing medical aid.

197. The Internal Control Sector has a Commission for monitoring implementation of the Convention against Torture or Cruel, Inhuman or Degrading Treatment or Punishment, which monitors and investigates cases of such actions of police officers towards persons deprived of liberty.

198. In 2008, special action plans were developed for a number of social care facilities accommodating users in which irregularities in the protection of users were detected. For the purpose of execution of activities, deadlines, executives and funds were determined. MLSP is planning to develop these action plans for all facilities which accommodate children or adults with disabilities.

199. Such action plans, *inter alia*, include an obligation that children with disabilities can only be received after a detailed review of merits, appropriate use of available capacities of institutions, and after creating a registry for recording applied “restrictive measures“ (mechanical restrains, isolation and positioning of users, application of a drug therapy to recover from psychomotor restlessness), when a measure and its duration are imposed. Also, restrictive measures may be applied only by the order of a psychiatrist, in relation to a specific user, and there is no possibility to issue a blank psychiatrist's order.

200. Procedures were introduced in situations of risk of injuries and self-harm of users (psychiatrist's assessment and assessment of a prevention method), and cooperation on medical staff education was established between MLSP and MH.

Practice

Civil society organisations indicate that psychiatric facilities have no legal obligation to develop a protocol on the use of means of physical restraints on users. With regard to social care facilities, as part of development of minimum service standards in the field of social protection, MLSP developed a set of standards, *inter alia*, for restrictive actions and measures in social care facilities. These are guidebook materials, i.e. instructions according to which facilities develop their own binding protocols. Although level of awareness of damage and risks arising from the use of restrains is higher among facilities' staff and administration institutions in comparison to the past few years, the practice related to restrains applied in self-harming behaviour should continued to be improved.

Article 16 Freedom from exploitation, violence and abuse

Family and legal protection from violence

201. The Family Law in a separate section for the first time introduces provisions on domestic violence and family and legal protection of victims of violence. Domestic violence is a new term in the positive law in the Republic of Serbia, and its special civil and legal sanctioning has achieved significant progress in protecting victims of domestic violence (who are, most often, women, children, persons with disabilities, elderly persons).

202. Part of the Criminal Code (CC) (Article 194) determines a separate criminal act of domestic violence. This Article sanctions any behaviour of family members that in a criminal and legal sense may be qualified as a criminal offense, particularly paragraph 5 of the Article, which sanctions behaviour that violates civil measures of protection against domestic violence determined by the Family Law.

203. Additionally, this Law ensures criminal and legal protection from "neglect and abuse of a minor".

204. CC determines a criminal offense of rape of a helpless person, and after ratification of the Convention, imprisonment sentences for offenders of this crime became more strict.

Policy documents

205. SIPPD includes measures relevant for the protection of persons, in particular women and children with disabilities, against violence, abuse and exploitation.

206. In the institutional system of family protection, on the basis of the law, centers for social work, established within every local self-government, provide aid and support to families.

207. Violence most often affects the most vulnerable groups: children, women, elderly persons, including persons with disabilities. In recent years, considerable progress has been achieved in the Republic of Serbia in curbing violence. Legal regulations were adopted which regulate the status of victims, measures for offenders and define competencies of specific bodies, as well as moral obligation of every citizen to report violence.

208. In order to create a uniform system, experts in the field of social protection systems, education, health, justice, police and NGO sector have been continually trained to identify and take joint coordinated actions to protect children from abuse and neglect.⁴⁵

209. The national strategy for the prevention and suppression of violence against women and domestic violence in the Republic of Serbia encourages implementation of international and domestic legal norms and standards that protect human rights, promote gender equality and prohibit any form of violence against women, including domestic violence as a form of violence that mostly affects women. In developing the strategy, particular importance was given to the identification of specific and particularly vulnerable groups on the basis of the number of members and vulnerability. The strategy pays special attention to groups of women that are or may be exposed to multiple discrimination, as well as to vulnerable groups of women which include: women with disabilities, Roma women, mothers of children with disabilities, developmental disabilities or chronic illnesses, rural women, elderly women, refugees and internally displaced women, etc. To the development of the document also significantly contributed women representatives of the association “...Iz Kruga”, an organisation for the protection of rights of and support to persons with disabilities of Serbia.

210. The publication “Women with disabilities – invisible victims of violence” by the organisation “...Iz Kruga” is the only material of this kind in Serbia which provides statistics on cases of domestic violence reported to this association, as well as case studies on violence against women with disabilities. Since 1997 to 2008, the association “...Iz Kruga” received 5,520 calls. Most of the calls (93%) were made by women with disabilities who were exposed to various forms of violence. Most common was verbal abuse (28%), then economic (24%), physical (11%), forced isolation (22%) and sexual violence (6%). Most vulnerable are women with intellectual disabilities 48%, with cerebral palsy 32%, muscular dystrophy and neuromuscular disease 15% and women with combined disabilities 5%. Reasons for these figures lie in the fact that women with a higher degree of disabilities physically depend on assistance and support in carrying out their basic needs. Not only are they more vulnerable, but are often subject to specific form of abuse, which is reflected in the denial of assistance in self-care, hunger, deprivation of orthopaedic devices and means of communication, as well as threats that they would be left alone on the street without any assistance, that they will end up in a home or a psychiatry clinic, that they will live in total isolation “if they are disobedient”, and similar forms of abuse. Bullies were in 87% men, most often family members whom women with disabilities

⁴⁵ The Government of the Republic of Serbia and other responsible state bodies adopted the following binding documents: the National Action Plan for Children; National Strategy for Prevention and Protection of Children against Violence and Action Plan for its implementation; General Protocol for the Protection of Children against Abuse and Neglect and relevant special protocols (social protection system, health, education, justice, police).

fully depend on. MLSP also monitors operation of facilities in the social protection system.

211. MLSP supported work of the association “...Iz Kruga”, which has an SOS line, free psychological and legal counselling for women and children with disabilities who are victims of violence and discrimination.

212. The Office of Ombudsman is competent for monitoring services in the facilities for accommodation of children, youth, adults and elderly persons with disabilities and in 2009 and 2010, employees in the Office monitored operation of facilities for accommodation of persons with disabilities and elderly homes.

213. In 2006, the Government of the Republic of Serbia adopted the Strategy for fight against human trafficking in the Republic of Serbia⁴⁶, which establishes mechanisms for fight against human trafficking.

Article 17 Protecting the integrity of the person

214. Persons with disabilities in the Republic of Serbia have a constitutional right to physical and mental integrity and protection from torture, cruel, inhuman and degrading treatment or punishment on equal terms with others. Physical and mental integrity is inviolable. Nobody can be subjected to torture, inhuman or degrading treatment or punishment, or subjected to medical or scientific experiments without their consent (Article 25 of the Constitution).

215. LHC protects human rights and values in health care and rights of patients by guaranteeing the right of access to health care, right to information, right to being informed, right to free choice, right to privacy and confidentiality of information, right to making independent decision and giving consent, right to have an insight into medical documents, right to confidentiality, right of the patient involved in medical experiment, and right to complain and right to compensation. All these rights apply to all patients, including persons with disabilities.

216. The patient has the right to obtain from the competent health care professional a timely notification required for him/her to make a decision on whether to agree or disagree with a proposed medical measure, particularly within the right to free choice. The patient has the right to decide freely about everything that concerns his life and health, except in cases which directly threaten lives and health of others. Without patient's consent, he/she cannot, as a rule, be exposed to any medical measure. A medical measure may be applied against patient's will, i.e. patient's representative, only in exceptional cases determined by the law, which are in accordance with medical ethics. The patient may approve a proposed medical measure explicitly (orally or in writing), i.e. implicitly (not disagreeing explicitly). Consent not preceded by a required notification is not binding, and the competent health care professional who applies a medical measure bears the risk of adverse effects in this case. Consent of a proposed medical measure may be verbally recalled by the patient until it has been applied, under conditions prescribed by the law. The patient has the right to appoint a person who shall, on his/her behalf, give consent, i.e. who shall be informed

⁴⁶ “Official Gazette of RS”, No. 111/06

instead of the patient about applying a medical measure, in case the patient becomes incapable to make a decision on consent. The patient has the right to refuse a proposed medical measure, even in case when it is used to save or maintain patient's life. The competent health care professional is obliged to indicate to the patient the consequences of his/her decision on refusing a proposed medical measure and to require from the patient a written statement which must be kept in records on treatment, and if the patient refuses to provide a written statement, an official note shall be made on this. The competent health care professional shall enter to medical records data on patient's consent to a proposed medical measure, as well as on its refusal. Article 38, paragraph 4 of LHC, which refers to medical experiments, is fully complied with provisions of the Convention on NOPWDS' initiative.

217. From the stated provisions, it is clear that all persons, including persons with disabilities, are protected from medical procedures taken without their freely provided consent of a proposed medical measure, so that no medical measure may be carried out by force, including sterilisation and pregnancy termination (abortion).

Article 18 Liberty of movement and nationality

218. In Article 39, the Constitution of the Republic of Serbia determines that liberty of movement and residence and the right to leave the Republic of Serbia may be restricted by the law, if necessary to conduct criminal proceedings, protection of public order, prevention of contagious diseases or defense of the Republic of Serbia. Article 38 of the Constitution determines that obtaining and termination of the citizenship of the Republic of Serbia shall be regulated by the law. Terms for obtaining and termination of the citizenship, as well as conditions for restricting liberty of movement may be prescribed by the law, which applies to all persons, regardless of whether they are persons with disabilities or not.

Article 56 of the Law on Police prescribes conditions for temporary restriction of liberty of movement in a particular area or facility for the purpose of:

- Preventing commission of crimes or misdemeanours;
- Finding and seizing perpetrators of a criminal offense or misdemeanour;
- Finding and seizing the person being sought;
- Finding clues and objects which may serve as evidence that a criminal offense or misdemeanour has been committed.

219. The Law on Police prescribes that temporary restriction of liberty of movement cannot last longer than the achievement of an objective for which an authorisation was applied. Restriction longer than eight hours requires an approval of the competent district court (Article 56, paragraph 2).

220. The Republic of Serbia indicates to the positions set in paragraphs 458 to 469 of the Second Periodic Report on Implementation of the International Covenant on Civil and Political Rights.

Article 19 Living independently and being included in the community

221. LSP prescribes that the right to allowance for assistance and care by another person shall be granted to the person who, due to physical or sensory impairment, intellectual difficulties or health changes, requires assistance and care of another person in carrying out basic daily activities (Article 92, paragraph 1). A need for assistance and care of another person occurs with persons who, due to a physical impairment, vision impairment causing loss of sensation of light with an accurate projection, or with vision gained with 0.05 correction, intellectual difficulties or health changes, require assistance and care of another person to satisfy his/her basic daily needs and who cannot get out of bed, move within an apartment without use of aids, eat, dress, undress, or maintain basic personal hygiene without assistance of another person. These provisions were entered into the wording of LSP at the initiative of NOPWDS. LSP prescribes that a monthly amount for assistance and care of another person is RSD 7,600 and that it shall be adjusted to the consumer price index twice a year (Article 93).

222. According to LSP, the right to increased allowance for assistance and care of another person shall have a person who is, pursuant to regulations on pension and disability insurance, found to have a 100% physical impairment on one of the grounds, or to have a permanent neurological and psychological organ disorder (Article 92, paragraph 1), and a person with more impairments, provided that the level of impairment is 70% or more, at least on two grounds (Article 92, paragraph 1). A monthly amount of increased allowance for assistance and care of another person is RSD 20,500, and it shall be adjusted to the consumer price index twice a year (Article 94 of LSP). One of the parents who is not employed, and who has at least 15 years been directly taking care of his/her child who gained the right to increased allowance for assistance and care of another person, shall be entitled to special compensation in the form of lifelong monthly cash payment in the amount of a minimum pension in the employees insurance, after he/she has fulfilled a general age requirement for obtaining a pension, according to regulations on pension and disability insurance, if he/she did not obtain the right to pension (Article 94 of LSP).

223. LSP defines groups of social care services (Article 40). These are, *inter alia*, community services which include daily care and home assistance. For the first time in Serbia, LSP also envisages support services for independent living: supported living, personal assistance, training in independent living. This is a significant step in the development of support services which should be able to enable full social inclusion and independence of persons with disabilities. Supported living shall be financed from the national budget, whereas local self-governments shall fund personal assistance services. Given financial capacities of local self-governments in the Republic of Serbia, the question is raised whether the personal assistance service can be provided in practice without the financial support of the Serbian Government and foreign donors.

224. The Law on Social Protection envisages plurality of service providers and equalising terms for service providers from the public, private and civil sector through the licensing process and determining minimum standards for services, in particular services in the community. This creates a possibility to introduce more services to local communities, particularly to those with a greater number of persons with disabilities. In poorer areas, introduction and sustainability of social protection

services shall be ensured through the mechanism of earmarked transfers from the national level.

225. LSP prescribes the use of home accommodation services. Although the law prescribes an obligation for centers for social work to investigate conditions for non-institutional care, until the beginning of 2000, prevailing practice in the Republic of Serbia was to accommodate PWDs to facilities, even young people with physical disabilities to nursing homes, or persons with intellectual disabilities to mental health facilities for people with psycho-social disabilities. Only since 2000, the Republic of Serbia has made an attempt to organise non-institutionalised support services for PWDs, primarily through pilot projects. The Republic of Serbia is making significant efforts to improve conditions and results in this field.

226. The Law on Social Protection regulates conditions for sustainable development of social housing and method of provision and use of funds for social housing development, as well as other issues related to social housing. Social housing funds are used, *inter alia*, for achieving different forms of provision of apartments for social housing of persons with disabilities, as well as war veterans and war veterans in civil service, and supported living for persons with disabilities. The right to resolving housing needs, in accordance with the law, have persons without an apartment, i.e. persons without an apartment of an appropriate standard, and who cannot afford an apartment under market conditions from their incomes. Disability is one of the main criteria for determining an order of priority for addressing housing needs of persons who are entitled to resolving housing needs.

227. With the support of foreign donors – the Government of the Republic of Ireland, UNDP, Balkan Trust for Civil Initiatives, Oxfam – and with the funds from MLSP, Social Innovation Fund, AP Vojvodina and several local self-governments, since 2001, several cities in the Republic of Serbia have been developing the personal assistance service through pilot projects for more than a hundred persons with physical disabilities. The projects have been used for piloting service standards as well.

228. Since 2001, an emphasis in the field of social protection has been placed on the development of social services in the community, particularly for the most vulnerable groups of citizens (children, women, persons with disabilities, children with developmental disabilities, victims of violence, members of Roma and other communities, and other groups). In terms of this, a number of services has increased in the previous period aimed at preventing accommodation in facilities such as daily care for children with developmental disabilities and persons with disabilities, as well as at personal assistance, independent living, home assistance, and other services. Stated services were introduced through various programs, competitions and projects, and a number of them was not sustainable after termination of project funding (insufficient capacities of local self-governments for their continued funding).

Practice

229. Civil society organisations indicate that possibilities of returning children with disabilities from institutions to the community are still limited. While the number of children without parental care has been significantly reduced, number of children

with disabilities in institutional care still does not follow this trend in a satisfactory manner. For the purpose of preventing further institutionalisation of children, in 2006, MLSP determined actions for reviewing decisions which place children in social care facilities – in terms of this, the most important is the condition for obtaining consent of the Ministry for individual placement in a facility, documents proving that the Center for Social Work attempted to provide children with accommodation in less restrictive environment, and a six-month periodic review of a need for staying in a facility.

230. Civil society organisations point to limited opportunities of employment and obtaining support in everyday life, which makes it more difficult to deinstitutionalise adult persons with a mental disability. The same applies to persons in psychiatric institutions and persons in social care institutions – many of them do not have a family or cannot be supported because they have no assets and/or incomes, so they remain in institutions for actually no medical reasons.

Article 20 Personal mobility

231. According to the Law on Traffic Safety, training may be provided for candidates for drivers who are persons with disabilities, which must be performed in vehicles manufactured or adapted to meet the needs of candidates.

232. PWDs and organisations which bring them together are exempted from paying an annual motor vehicles fee for using public roads. The Law on Public Roads⁴⁷ prescribes that if a vehicle is driven by a person with a disability, it may be required to mark the vehicle with a sticker (Article 23). The sticker shall enable use of parking places which are with a supplementary panel marked as parking places for persons with disabilities, whereas other vehicles are prohibited from parking in these places.

233. Reconstruction of one of the central streets in Belgrade, Kralja Milana Street, in 2002, was an opportunity to install tactile paths for the blind and visually impaired persons and bring down curbs at pedestrian crossings for persons with mobility limitations. With the financial support from the Belgrade City Assembly, the project was implemented by a team of experts from the Faculty of Architecture, University of Belgrade, in consultation with the local organisation of persons with disabilities.

234. An insured blind person is entitled to tiphlotechnical aids. The insured blind person who is trained to use Braille, is entitled to a Braille typewriter. If he/she is a member of a library or at school, the insured blind person is entitled to a player. The blind insured person is entitled to a Braille watch for the blind, to the glasses with dark glasses and to a white cane for the blind. The insured person, who is both blind and deaf, is entitled to an ultrasound stick. The insured blind person who is a pupil of the 5th or higher grade, a student, an employed person or a person who could make use of speech software for the Serbian language for the blind in terms of employment arrangements, is entitled to speech software for the Serbian language for the blind, if he/she has a computer of an appropriate configuration without this kind of speech software.

⁴⁷ “Official Gazette of RS“ No. 101/05, 123/07 and 101/11

235. The Rulebook on medical and technical aids which are provided from the funds for compulsory health insurance, regulates types of medical and technical aids, indications for prescribing aids which are provided to insured persons by the Republic Fund of Health Insurance (RFHI) from the funds for compulsory health insurance, standards for materials used for making aids, service life of aids, i.e. procurement, maintenance and repair of aids, as well as method of and procedure for obtaining rights to aids by insured persons. This Rulebook also regulates forms on the basis of which insured persons exercise rights to aids. Aids determined by the Rulebook, provided to insured persons by RFHI (with or without participation), are: prosthetic aids (dentures); orthotic aids (orthoses); specific types of aids and sanitation equipment; ophthalmic aids; hearing aids; aids for enabling voice and speech; dental devices, and the term “aids” also includes consumables necessary for the use of specific aids. A constituent part of the Rulebook is the List of aids which includes types of aids, indications for prescribing aids, participants in the prescribing process, service life of aids and parts of aids with a shorter service life. A constituent part of the Rulebook is also a Codebook of aids which, according to types of aids, contains defined standards for producing aids, parts, quantities, servicing aids, changeable i.e. repairable parts.

236. Indications for prescribing aids are: a medical diagnosis made in accordance with the International Classification of Diseases – Tenth Revision (ICD 10), age or anthropometric measurements (body weight; body height) of the insured person; number of aids prescribed for specific types of aids; housing and other conditions relevant for the use and proper application of specific aids (housing, electricity, water, hygiene level, mental level or conservation, smoking habits, etc.). Aid quality standards are: method of making aids – the final product, individually tailored making, semi-finished product with individual adjustments; types of materials used for making entire or parts of aids; number of aids; servicing aids or parts of aids in the period from the expiry of the guarantee period to the expiry of service life, and other parameters which guarantee functionality of aids.

Article 21 Freedom of expression and opinion, and access to information

237. The Republic of Serbia reiterates the opinions stated in paragraphs 394-400 of the Second Periodic Report on the Implementation of the International Covenant on Civil and Political Rights (CCPR/C/SRB/2).

238. Within the sector in charge of information, the Ministry of Culture, Media and Information Society shall undertake measures and activities for undisturbed exercise of rights to freedom of expression and opinion, and access to information by persons with disabilities and propose regulatory framework, co-finance programmes and projects and supervise the application of law.

239. The Ministry of Culture, Media and Information Society shall be in charge of proposals for the laws to provide undisturbed functioning of the public information system.⁴⁸

240. The Law on Public Information (LPI) guarantees the right to public information to all citizens. This Law governs special protection of the right to information for persons with disabilities, handicapped persons and persons with special needs (Article 5). Based on this provision, the Republic, the autonomous province and local self-government, respectively, shall be obliged to provide a part of funds or other conditions for undisturbed exercise of the rights of persons with disabilities to public information, free receipt of ideas, information and opinions.

241. The Ministry of Culture, Media and Information Society shall issue annual tenders for co-financing of projects/programmes from the field of public information to support also the projects contributing to increase of quality of information to persons with disabilities. In 2009, through the tenders, the funds in the amount of RSD 1,736,493.00 had been allocated, and in the amount of RSD 1,698,850.00 outside the tenders. A separate tender for co-financing of programmes/projects intended for persons with disabilities was issued for the first time in 2010, allocating the funds in the amount of RSD 1,977,628.00. The funds specified in the budget of the Republic of Serbia in 2011 for this purpose amounted to RSD 5,000,000.00.

242. The Broadcasting Act prescribes special obligations of the holders of the public broadcasting service, which are obliged to produce and broadcast the programmes intended to all segments of the society, without discrimination, taking into account in particular specific social groups, such as children and youth, minority and ethnic groups, handicapped persons, socially vulnerable and persons of poor health, the deaf and dumb (there is an obligation to broadcast in parallel the written text of the description of sound segment of actions and dialogues (Article 78 paragraph 1, item 2)). The independent regulatory body, the republic Broadcasting Agency, shall control the implementation of the provisions of the law by broadcasters.

243. The Law on Free Access to Information of Public Importance⁴⁹ does not establish any special obligation for the authorities to secure for persons with disabilities direct communication in the sign language or in the form of Braille alphabet, but it is prescribed that the persons unable to review the document containing the required information without an attendant shall do it with the assistance of an attendant (Article 16 paragraph 8).

Article 22 Respect for privacy

244. The Law on Health Care (LHC) prescribes the right to secrecy of data. The data contained in medical documentation belong to personal data about a patient and present an official secret.

⁴⁸ The Law on Public Information ("Official Gazette of RS", Nos. 43/03,61/05,71/09 and 89/10- amended by the Decision of the Constitutional Court) and the Broadcasting Act ("Official Gazette of RS", Nos. 42/02, 97/04, 76/05, 79/05 – amended by other laws, 62/06, 85/05 and 41/09) are within the competence of the Ministry.

⁴⁹ Published in "Official Gazette of RS", Nos. 120/04, 54/07, 104/09 and 36/2010

245. The Law on Personal Data Protection⁵⁰ (LPDP) provides protection of personal data to any natural person, regardless of his/her personal capacity (Article 1). The provider, in accordance with the Law on Personal Data Protection, shall be obliged to issue to a person with disability a copy of the data in an understandable form. An illiterate person, a person with disability, namely a person unable to make a request for accomplishment of some right in writing, due to his/her physical or other deficiency, may declare such a request verbally on the grounds of relative minutes.

246. In accordance with the Law on Personal Data Protection, a person with disability may request to make a review of the data outside the official premises of the provider, if such premises do not have an adequate access. The provider shall be obliged to enable a person with disability to accomplish a review of the data in the manner to be selected by the person concerned. Also, a person not able to review the document containing the required information without an attendant shall do it with the assistance of an attendant.

Article 23 Respect for home and the family

247. The Family Law establishes that a marriage is a common living of a man and a woman governed by law, that a marriage may only be contracted on the grounds of free will of future spouses and that the spouses are equal (Article 3). The importance of free will for the contraction of a marriage is especially stressed in Article 24 of the Family Law prescribing that a marriage may not be contracted by a person whose will is not free.

248. The Family Law prescribes that it is an impediment for the contraction of a marriage if, *inter alia*, a person with no capacity of reasoning wishes to contract it.

249. In the legal system of the Republic of Serbia there are no restrictions for the contraction of marriages concerning, *inter alia*, disability not affecting free will for a marriage.

250. The decisions on the exercise of parental right by one of the parents, on the method of personal relations between a child and a parent who does not exercise his/her parental right and the decisions on protection of other rights of a child are not conditioned by disability of the child or the parent concerned.

251. The Republic of Serbia wishes to point out to the information submitted in the Initial Report to the Committee on the Rights of the Child (CRC/C/SRB/1) paragraphs 94-99.

252. The Family Law prescribes special forms of protection of children without parental custody that are not conditioned or limited because of certain characteristics of a child concerning his/her disability (adoption, fostering, placement at social protection institutions and custody).

253. Further implementation of the development of specialized fostering has been in progress by means of which placement of children with behavioural difficulties

⁵⁰ "Official Gazette of RS", Nos. 97/08 and 104/2009

would be ensured, as well as of disabled children, with the aim to decrease the application of institutional forms of protection.

254. Pursuant to the provisions of the Labour Law, one of the parents of a child in need of special care because of his/her severe level of handicap, except for the cases prescribed by the regulations on health insurance, shall have the right to take leave from work, upon the expiration of maternity leave and leave from work for the purpose of child care, or to work half working hours, not later than five years of age of the child concerned.

255. A parent or a custodian, namely a person in charge of care of a person disabled because of cerebral paralysis, paralysis in children, some sort of plegia or suffering from muscular dystrophy and other diseases, based on the opinion of the competent medical institution, may work half working hours under his/her request, which working hours may not be shorter than half of full working hours.

256. The Law on Financial Support to Families with Children⁵¹ (LFSFC) prescribes the right to children allowance to be accomplished by one of the parents.

257. The compensation of costs of stay at pre-school institutions for children with disabilities is one of the measures of protection of this category of children as an especially vulnerable population. This measure shall encourage inclusion of such children into the educational system.

258. In 2010 the Ministry of Health, the Ministry of Education and the Ministry of Labour and Social Policy adopted the Rulebook on Additional Educational, Health and Social Support to Children and Pupils providing for the establishment of inter-line commissions in local self-governments. Also, since 2010 the Ministry of Health has been implementing “A Child’s Place is within the Family” Project in co-operation with UNICEF, starting from maternity hospitals and rendering support to parents with children with disabilities. Teams of experts consisting of gynecologists, neonathologist, mid-wives, psychologists and social workers have been formed at maternity hospitals.

259. The Strategy for Improving the Position of Persons with Disabilities (SIPPD) stipulates certain special objectives: strengthening of families with persons with disabilities through the system of rendering adequate support by services and agencies helping the integration of persons with disabilities into the community and improvement of quality of services, as well as the measures for their implementation.

260. The opinion that children have the right to be within families and that big social welfare institutions are not suitable for their requirements, both physical and cognitive and psychological has been lately adopted. This refers to children with disabilities in particular.

261. As from 2001, the process of deinstitutionalization has been implemented, which is one of the priorities of the social protection reform. Concretely, the activities to improve the state and protection of beneficiaries have been initiated at all

⁵¹ “Official Gazette of RS”, Nos. 16/02, 115/05 and 107-09

institutions. Soon afterwards, the need for a special approach in redefinition of the existing network of institutions for children also posed, which also implies the change of their role, in order that they become capable of meeting the requirements of the community through rendering of local services. In the period following, significant efforts were made in the field of development of services in the community for all groups of beneficiaries. However, such services have not always been available to the most vulnerable groups, such as children with major and severe disabilities or children at residential institutions.

262. The results achieved by the Ministry of Labour and Social Policy in the reform within the last three years may be viewed at two levels: the first one refers to the results achieved in protection of children, and the second one refers to the systemic changes – adoption of solutions placing a child in the centre thus also strengthening the institutional framework that is capable to respond in more adequate manner to the needs and the implementation of the rights of the child, of children with disabilities in particular.

Article 24 Education

263. Equal rights and availability of education for all implies the application of inclusion measures in the educational practice..

264. The concept of the educational system in the Republic of Serbia has been organized through organizational units outside the seat of the Ministry of Education – School Administrations (18), which are in charge of performance of professional pedagogic supervision, provision of support to development planning and provision of quality work of the relevant institutions and performance of other jobs established by law in their own territories.⁵²

265. Within the system of education in the Republic of Serbia, and pursuant to the Law on Fundamentals of the Education System (LFES) no differences in education between children and pupils with disabilities and other children and pupils are allowed. By-laws and other acts regulate the measures ensuring equality in education and availability of education to children and pupils with disabilities in the same manner as to other children and pupils.

266. The Law on Fundamentals of the Education System (LFES), the Rulebook on Additional Educational Health and Social Support to Children and Pupils and the Rulebook on Detailed Instructions for the establishment of the right to an individual educational plan, its application and grading have provided the right of children and pupils with disabilities to assessment of additional support they need in education, in order to ensure more effective education and better inclusion. Based on the above mentioned documents, measures have been undertaken in order to make it possible to

⁵² Mentally challenged children have been included in the system of pre-school education, in regular groups, as well as in special (progress) groups, and the exercise of the right to education has also been provided for children at hospital treatment. Within the pre-school programme, regular educational programmes of activities have been accomplished, whereas other specific and specialized programmes may also be accomplished, in accordance with the needs and interests of children, parents and in compliance with the facilities of the children's nurseries and local self-government. In the republic of Serbia there are 159 state pre-school institutions located in 2,364 buildings and 57 private ones. In places where there are no nurseries, preparatory pre-school programme has been implemented at primary schools. 189 nurseries are located at primary school buildings. The total percentage of coverage of children of all ages has been increasing all the time (according to the data provided by the Ministry of Education, it was 32% in 2002, and it was 47.37% in 2009).

identify early disabled children, pupils and other persons and their educational needs with the aim that they accomplish their rights to complete education, qualifications, employment and independence.

267. The experts requiring special skills in the field of Braille alphabet, sign language, magnifying and alternative communications, mobility and in other fields have been trained at the Faculty for Special Education and Rehabilitation, and persons having experience from the Association for Blindness and Low Vision, the Association of Deaf and Hard of Hearing and other associations. Also, the experts from the schools for children with disabilities may also be engaged as associates in these fields, under the request of pre-school institutions and other schools.

268. The Law on Fundamentals of the Education System (LFES) prescribes that educational activities for the persons using the sign language and special alphabet or other technical solutions, respectively, may be carried out in the sign language and by means of the language concerned (Article 9 paragraph 4).

269. The Law on Fundamentals of the Education System (LFES) prescribes that educational activities shall be accomplished in Serbian language (Article 9). For the members of national minorities educational activities shall be carried out in their mother tongues. In exceptional cases, they may be carried out bilingually or in Serbian language, in accordance with a separate law. Educational activities may also be carried out in a foreign language and bilingually, respectively, in compliance with this Law and other law. Educational activities for the persons using the sign language, and special alphabet or other technical solutions, respectively, may be carried out in the sign language and by means of the language and alphabet concerned.

270. In addition to training of experts who will work with children/pupils with disabilities and persons with disabilities at the Faculty for Special Education and rehabilitation, some programmes have also been accredited at other faculties where the teaching personnel is trained to work in the educational system, which means that persons with disabilities shall be also included into the educational system, as the experts to work at the institutions of the system.

271. In the educational system of the Republic of Serbia, as one of the tasks to be fulfilled is the setting up of the Uniform Information System, which should include the data about children, pupils and students, including also the data about children with disabilities.

272. In view of the autonomy of the University, the Ministry of Education and Science does not possess the data about the number of enrolled disabled students, the number of disabled students already studying as well as about the number of graduated disabled students at main, master, specialized and doctor studies.

273. The Law on Fundamentals of the Education System (LFES), the Rulebook on Additional Educational Health and Social Support to Children and Pupils and the Rulebook on Detailed Instructions for the establishment of the right to an individual educational plan, its application and grading provided undertaking of measures to identify early disabled children, pupils and other persons and their educational needs

with the aim that they accomplish their rights to complete education, qualifications, employment and independence.

274. The organizations of civil society point out that in spite of advanced legal regulations requiring inclusion of children with intellectual difficulties (as well as of all other vulnerable groups) into the regular educational system, the majority of these children placed at the social protection institutions shall remain outside the educational system. Some institutions have been undertaking steps to include a certain number of children with minor difficulties into special schools, which is certainly insufficient as long as there are children not receiving any education. For many children at the institutions parents do not fulfil parental duties and exercise rights, and custodians are often employees of the social welfare centres thus not having sufficiently close relations with or interests in children. The Republic of Serbia has been making efforts with the aim to overcome the above mentioned conditions, for which aim concrete measures were undertaken by the Ministry of Labour and Social Policy and the Ministry of Education.

Article 25 Health

275. In the Health Care Development Plan, one of the three priority fields of the maintenance

276. and improvement of health is health care for especially vulnerable groups of population, within the framework of which is one of the set objectives to achieve full health potential of persons with disabilities through implementation, monitoring and evaluation of the Strategy for Improving the Position of Persons with Disabilities.

277. The task of the Strategy for Improving the Position of Persons with Disabilities and the Action Plan is to define objectives, measures and activities that would contribute to a social model and approach based on human rights be incorporated in measures effecting the issues of the position of persons with disabilities. In accordance with the set up frame, it has been planned that until 2015 general objectives would be achieved, *inter alia*, making social, health and other services based on rights and needs of beneficiaries available, in accordance with modern internationally accepted methods of assessment of disabilities and needs.

278. The Strategy for Improving the Position of Persons with Disabilities has as one of the general objective to make social, health and other services based on rights and needs of beneficiaries available, in accordance with modern internationally accepted methods of assessment of disabilities and needs. The needs shall be assessed applying internationally recognized methods. In addition to this, the availability of these services in architectural, organizational and programme sense should be also ensured. Also, it is necessary to develop and ensure accessibility of other services as well, which imply the application of modern technologies, and information programmes for persons with disabilities about the rights and options how to use such services at the local level..

279. The Strategy for Improving the Position of Persons with Disabilities makes a request to have a gradual but a compulsory transformation of the assessment system, in order that it would be functional and in accordance with the system to be constituted through the reform process, namely in accordance with the system

rendering possibilities and which is based on capabilities of persons with disabilities. The Strategy prescribes the introduction of a (bio-psycho) social model of disability, which makes the theoretical ground of the International Classification of Functioning, Disability and Health.

280. Within the framework of the general objective there is a special objective concerning improvement of the system of support and services directed towards beneficiary in accordance with his/her needs. The measures to achieve the above mentioned objective are: to develop further the concept of assessment of capabilities and needs towards bio-psycho-social model and harmonization of the standards of national classification with international standards of classification of functioning, disability and health; to develop the quality standards of social, medical and other services to be rendered to persons with disabilities in the local community, providing programme and methodological support to their implementation; to develop quality control system for social, medical and other services through the system of supervision, monitoring, programmes of education and professional advancement of service providers; to ensure that the system of social, medical and other services for persons with disabilities shall fully respect the principle of availability of services in the local community, under entire application of deinstitutionalization process; to ensure development of multi-disciplinary team work at all levels through linking the institutions with another two sectors; to ensure accessibility of social, medical and other services in architectural, organizational and programme sense – space with no ramps, mobile services, flexible working hours, adjusted information formats, educated service providers, as well as inclusion of modern technologies; to develop mechanisms that would enable the existence of pluralism of service providers (governmental institutions, agencies, associations of citizens and private sector), which shall render services on the grounds of established standards and principle of “the beneficiary (person with disability) is in the centre of created and rendered service”, respectively; to develop the standards of services, training and qualification for personal assistants; to ensure continuity, compatibility and inter-sector co-operation in rendering services to persons with disabilities; to develop a model of “means follow beneficiary”, so that a person with disability has the right to choose the type of service and provider; to encourage and support development of new services in the local community applying individual plans encouraging being active and support autonomy of persons with disabilities; to ensure comprehensive health care for persons with disabilities (health promotion, prevention of diseases at all levels, early diagnosis, treatment and rehabilitation), without discrimination in relation to their conditions and disease, in accordance with their requirements; to provide that persons with disabilities shall accomplish the right to modern medical-technical aids (dentures, orthosis and other apparatuses for walking, standing and seating, apparatuses for sight, hearing, speech and other apparatuses) in accordance with their needs; to ensure that medical workers render health care to persons with disabilities, respecting all rights of patients (the right to information, free choice of doctor, privacy and confidentiality of information, right to decision-making and approval, review of medical documentation, secrecy of data, objection, damage compensation); to provide for persons with disabilities access to specialized services of health care and rehabilitation; to ensure existence and development of rehabilitation programmes for all groups of persons with disabilities, based on individual requirements; to develop information programmes for beneficiaries with disabilities on the rights and options how to use services and prepare maps of

available services at the local level for this purpose; to introduce new jobs relevant for the development of services, through the programme of development of classification of professions.

281. As one of the measures, the Strategy prescribes the provision of accomplishment of the right to special apparatuses for correction and compensation, their regular maintenance, provision of medical goods and medicines the costs of which for the procurement and maintenance shall be secured from compulsory health insurance. The accomplishment of this right is presented in the part relating to the application of Article 20 of the Convention.

282. With the aim to monitor achieved results and assess success of implementation of developed plans, the Government of the Republic of Serbia will establish a body – the Council for Implementation of the Strategy for Improving the Position of Persons with Disabilities, which shall also have the task to prepare summary reports of the line ministries, adequate institutions and other adequate partners on the activities and achieved results in the field of improving the position of persons with disabilities.

283. In the part concerning human rights and values of health care, the Law on Health Care prescribes that every citizen shall have the right to accomplish health care with respect for the highest possible standard of human rights and values, namely that he/she has the right to physical and psychical integrity and security of personality, as well as with respect for his/her moral, cultural, religious and philosophic beliefs, and that every child up to the age of 18 years has the right to the highest possible standard of health and health care. This provision is valid for all persons, also including persons with disabilities.

284. The Law on Health Insurance (LHI) establishes that persons belonging to the population groups exposed to increased risk of disease shall also be considered insured persons, persons whose health care is necessary regarding prevention, suppression, early diagnosis and treatment of diseases of higher social-medical importance as well as persons belonging to the category of socially endangered impaired population, if they do not meet the requirements to obtain the status of insured persons, or if they do not accomplish the rights contained in compulsory health insurance as the members of the family of the insured person, who include, *inter alia*, persons with disabilities and persons with mental disabilities. For these persons the funds for payment of contributions for compulsory health insurance are allocated in the state budget on the basic amount and according to contribution rate for compulsory health insurance as prescribed by law. Thus, persons with disabilities and persons with mental disabilities gain the status of insured persons accomplishing the rights contained in compulsory health insurance with the contents, scope and method and according to the procedure prescribed by this Law and the regulations adopted for the implementation of this Law as all other insured persons.

285. The right to availability of health care provides that every patient has the right to available health care in accordance with his/her health conditions, and within the limits of financial capacities of health care system. In the procedure of accomplishment of health care a patient has the right to equal access to medical service without discrimination in relation to financial capacities, place of residence, type of disease or time of access to medical service.

Article 26 Habilitation and rehabilitation

286. The Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) prescribes professional rehabilitation of persons with disabilities as the organization and implementation of the programme of measures and activities with the aim to qualify them for adequate jobs, employment, maintenance of employment, progress or change of professional career.

287. The Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) governs in details the organization and the conditions for the operation of companies for professional rehabilitation and employment of persons with disabilities, and of working centres, respectively.

288. The Rulebook on Assessment of Additional Educational Health and Social Support to Children and Pupils ensures monitoring of needs of the child, provision of support in further social life and direction of remaining capacities to the child to the greatest extent.

289. The services of rehabilitation have been secured at all institutions where persons with disabilities and children with disabilities are placed, which are, on one side, intended for maintenance of capacities and, on the other, for raising of opportunities for persons with disabilities to fulfil their needs more adequately.

290. The provisions of Articles 19 and 20 of the Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) establish the right to professional rehabilitation for employed persons with disabilities.

291. Detailed conditions, criteria and standards for implementation of measures and activities of professional rehabilitation shall be prescribed in an agreement by the Minister in charge of employment affairs, the Minister in charge of health affairs and the Minister in charge of educational affairs.

292. In view of adverse educational structure of persons with disabilities (a considerable number of them has the first level of qualifications - 35.40%, and 12.21% of them has the second level, whereas the percentage of them with the third level is similar – 31.34%) looking for jobs and the fact that persons with disabilities may considerably improve their working outputs after the implementation of measures and activities of professional rehabilitation, the Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) prescribes the development of training programmes based on the requirements of the labour market, which meet the essential criteria for accomplishment of planned results and gaining of professional competences. In 2010 there were 29 organized trainings for the requirements of the labour market and the known employer, which also included 191 persons with disabilities.

293. The holders of jobs of professional rehabilitation may be companies for professional rehabilitation and employment of persons with disabilities, educational institutions and other legal entities and natural persons fulfilling the standards concerned.

Article 27 Work and employment

294. The Constitution of the Republic of Serbia guarantees to persons with disabilities special protection at work and special working conditions, in accordance with the law (Article 60 paragraph 5).

295. The Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) introduced, through the obligation to employ persons with disabilities, the principle of affirmative action with the aim to achieve more significant inclusion of persons with disabilities on the labour market.

296. The Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) prescribes incitements of employment in order to create the conditions for equal inclusion of persons with disabilities on the labour market, assessment of work capacities, professional rehabilitation, obligation to employ persons with disabilities, conditions for establishment and performance of jobs of companies for professional rehabilitation and employment of persons with disabilities, other special forms of employment and engagement for work of persons with disabilities, as well as other relevant issues. According to the data for 2011, there were 34.43% persons with disabilities with first level of qualifications, 12.5% with the second one, 31.19 with the third one, 16.8% with the fourth one, 1.99% with the fifth one, 1.96% with the sixth one and 1.52% with the seventh level of qualifications. The programme of activities of the National Employment Agency for 2011 planned that the trainings for the labour market would include 400 persons with disabilities in total, of whom 350 in trainings for the labour market, and in trainings under the request of employers 50 persons with disabilities. As for the trainings for the requirements of employers there were no persons with disabilities included (the source of information: the National Employment Agency).

297. The procedure of assessment of work capacity and employment opportunities or maintenance of employment includes medical, social and other criteria establishing opportunities and capabilities of a person with disability necessary for his/her inclusion on the labour market and performance of concrete jobs independently or with the support service, use of technical aids, and employment opportunities under general or special conditions.

298. In 2010 the employment policy was directed towards the preparation of new regulations providing better environment and more efficient functioning of the labour market, encouraging employment of unemployed people, and of persons with disabilities in particular.

299. As a vulnerable group, persons with disabilities have priority in inclusion in the measures of active policy of the labour market. The support to get the first employment after education, namely the support for the quickest integration on the labour market after leaving school, shall be rendered through the programmes of practice and apprenticeship and especially adjusted training for active looking for jobs (also including motivation training and clubs for looking for jobs). Also, the Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) prescribes an option of subsidizing of income on the occasion of

employment of a person with disability with no work experience, within the period of 12 months (Article 32). For persons with no adequate qualifications or without any qualifications professional training shall be organized. The effects of the programmes of professional training and training in general shall be monitored.

300. In case an employer does not fulfil the obligation prescribed by law or if an employer does not fulfil the obligation concerned by means of some of the offered alternatives, the employer shall be obliged to pay penalties in the amount of triple value of the minimum salary value established by labour regulations, for each person with disability that had not been employed.

301. The Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) introduces new forms of organization, as special forms of employment and work engagement of persons with disabilities, such as: companies for professional rehabilitation and employment of persons with disabilities, social companies and social organizations, work centres.

302. The Law on Prevention of Abuse at Work⁵³ (LPAW) prescribes prohibition of any form of abuse at work and in relation to work, as well as misuse of the right to protection against abuse.

303. The Labour Law (LL) prescribes that an employee may not work overtime if such work, according to the findings of the competent medical institution, could worsen his/her health. It also prescribes that an employee with health problems, established by the competent medical institution pursuant to law, may not perform jobs that would cause worsening of his/her health or consequences dangerous for his/her surroundings (Article 81).

304. According to the Labour Law, the employer shall be obliged to ensure the performance of job for an employed person with disability with decreased work capacity in accordance with the remaining work capacity (Article 101).

The Labour Law does not prescribe any special protection against cancellation of employment contract of persons with disabilities, but it contains the provisions on illegal cancellation of employment contract and how labour inspectors shall act in case of illegal cancellation of employment contract, which are valid for all employees.

⁵³ Published in "Official Gazette of RS", No. 36/10

Practice

305. Within the last several years, the number of persons with disabilities, registered with the National Employment Agency, has been relatively constant. Entering into force of the obligation to employ persons with disabilities resulted in considerable employment of this category of unemployed persons. For example, in the course of 2010, there were 3,681 persons with disabilities who signed employment contracts, which is both qualitative and quantitative more significant result in relation to previous years. Since the Law on Professional Rehabilitation and Employment of Persons with Disabilities⁵⁴ entered into force until the end of 2010 there were 5,558 employed persons with disabilities. However, employment did not result in analogous decrease of the number of persons from this category in the records of unemployed persons, for it was followed by inflow of new persons whose work capacity had been assessed and who had gained the status of persons with disabilities, within the meaning of Article 4 of the Law on Professional Rehabilitation and Employment of Persons with Disabilities. On the basis of review of the global conditions of individuals and the conditions on the labour market, the expert testimony body shall assess diseases and problems of influence on work capacity and employment opportunities or maintenance of employment based on the scale.

306. In 2010 there were 4,071 decisions adopted concerning assessed work capacities. Out of the total number of adopted decisions, 74% indicated that difficulties and obstacles were small and made it possible to get employment under general conditions – without adjustments.

307. The change of conditions in the records of the National Employment Agency, in combination with analyses concerning qualification and age structures of those who were looking for jobs from the category of persons with disabilities, caused the measures and activities on the labour market to be directed towards more complete coverage of persons with disabilities by active employment measures. For example, within the period of 6 months from the date of issuance of some measure, there were 1,036 persons with disabilities who got employment in 2010, taking part in the programmes of career management and consulting, additional education and training, subsidized employment.⁵⁵

308. Based on the Report on fulfilment of obligation to employ persons with disabilities according to the Law on Professional Rehabilitation and Employment of Persons with Disabilities, the average number of employed persons with disabilities was 10,326 in 2010 based on the submitted forms.

309. With the aim to create opportunities for more efficient and better quality inclusion of persons with disabilities on the labour market, the National Employment Agency has issued, as the support to employment of persons with disabilities, as from 3 February 2011, the following tenders for:

- Grant of subsidies to employers to open new work posts;
- Grant of subsidies for self-employment to unemployed persons with disabilities;

⁵⁴ 23 May 2009

⁵⁵ The statistical data about the implemented programmes are contained in paragraphs 118-120 of Annex.

- Tenders to organize and carry out public works where persons with disabilities shall be engaged;
- Refund of salary of persons engaged to render professional support to persons with disabilities at work;
- Participation in financing of training programmes for persons with disabilities for the requirements of employers;
- Submission of claims for refund of adequate costs of adjustment of work post for employment of persons with disabilities;
- Implementation of professional practice and submission of claims for grant of subsidies of salaries for employment of persons with disabilities without work experience.

310. By means of the research under the title of “Report by Companies for Professional Rehabilitation”, the Statistical Office of the Republic of Serbia collected the data on rehabilitation and qualification of persons with disabilities at protection workshops, institutes and institutions for professional training. Based on this report, the differences in the number of employed women and men with disabilities may be observed, who had been qualified within the company for professional rehabilitation (out of total, with the company, out of the company and those who have been waiting for employment).

311. In the annual statistical report on beneficiaries of age and forms of social protection, which is provided by the Social Welfare Centre, the data are collected concerning the total number of various categories of beneficiaries of social protection of those employed through the Social Welfare Centre.

312. The provisions of the Law on Civil Servants and the Law on Salaries of Civil Servants and State Employees⁵⁶ (LSCSSE) present the legal framework providing general protection against discrimination at the state bodies of the Republic of Serbia.

313. The Law on Civil Servants⁵⁷ (LCS) prescribes:

- Prohibition of any form of advantages or deprivations of civil servants in respect of his/her rights or duties, especially because of racial, religious, sex, national or political affiliation or because of some other personal characteristic (Article 7);
- fundamental principle of employment at state bodies according to which all work posts are available to all candidates under equal conditions (Article 9);
- that on the occasion of employment at the state bodies care shall be taken of national composition, representation of sexes and the number of persons with disabilities to reflect the population structure to the greatest possible extent (Article 9);
- that the selection of candidates shall be based on the system of merits – implying that on the occasion of selection of candidates for each executive position and each position with the state administration bodies care shall be taken of qualifications, knowledge and skills of candidates in the first place;
- that all civil servants shall be equal when deciding on advancement and remuneration and accomplishment of their legal protection (Article 11).

⁵⁶ “Official Gazette of RS”, Nos. 62/06, 63/06, 115/06, 101/07 and 99/10

⁵⁷ “Official Gazette of RS”, Nos. 79/05, 81/05 - corr., 83/05 - corr., 64/07, 67/07 - corr., 116/08 and 104/09

314. The special collective agreement for the state bodies⁵⁸ regulates the obligation of the employer to ensure in the budget of the republic of Serbia the funds for the implementation of established measures for elimination of risks in the field of safety and health at work, also including the funds for the prevention of work acquired disability (Article 15). In addition, in case of occurrence of severe disability, the employee has the right to assistance from the state with disability-related expenses (Article 25 item 4).

Article 28 Adequate standard of living and social protection

315. The Law on Public Housing⁵⁹ governs the conditions for sustainable development of public housing and the method of provision and use of funds for development of public housing, as well as other issues of importance for public housing. The funds for public housing shall be used, *inter alia*, to incite various forms of provision of flats for public housing of persons with disabilities, as well as of individual and family persons with disabilities and civilians disabled during war, as well as housing with the support for persons with disabilities. The right to resolve housing needs in accordance with this Law shall be held by persons with no flats, and persons without flats of adequate standard, respectively, who cannot provide a flat at the market prices with the earnings they make. Disability is one of the basic criteria for establishment of priority list for settlement of housing needs of persons who accomplish the right to resolution of housing needs.

316. The Strategy for Improving the Position of Persons with Disabilities prescribes general and special objectives regarding the application of Article 28 of the Convention.

317. The Law on Social Protection created a comprehensive systemic framework in order to make it possible for persons with disabilities to have access to services, devices and other adequate aid at affordable prices, including availability of programmes covering additional financial costs related to disability.

318. The Law on Social Protection prescribes that every individual and family in need of necessary social aid and support in order to overcome social and living problems and create the conditions to meet essential requirements have the right to social protection, which is provided by rendering the services of social protection and financial support. Within this meaning, the services of social protection are the activities of support and aid rendering to an individual and family with the aim to improve, namely to maintain the quality of living, eliminate or mitigate the risks of adverse living circumstances, as well as to create possibilities for independent living in the society. The right to various types of financial support shall be exercised with the aim to ensure the minimum of living standard and support to social inclusion of beneficiaries.

319. The beneficiaries of social protection shall be the citizens of the Republic of Serbia, although they also can be foreign citizens and stateless persons, in accordance with law and international treaties. In compliance with the principle of non-discrimination, contained in the Law on Social Protection, all persons with disabilities

⁵⁸ "Official Gazette of RS", No. 95/08

⁵⁹ "Official Gazette of RS", No. 72/2009

have equal rights to social protection services and financial support, as well as to support in preventing social exclusion.

320. The Law on Social Protection established the right to pecuniary social assistance, belonging to an individual, and to family, respectively, who through their work, income from property or from other sources make income smaller than the amount of pecuniary social assistance prescribed in this Law. Also, this Law prescribes that an unemployed family member, who takes care of a person with disability or of a child with disability using allowance for aid and care by another person, on any grounds, shall have the capacity of a person incapable of work, which is an advantage in accomplishment of the right to pecuniary social assistance.

321. In addition to pecuniary social assistance, a person may also accomplish other pecuniary compensations – allowance for assistance and care of another person, namely increased allowance for assistance and care of another person. These rights do not depend on income, and it is also possible to accomplish the right to pecuniary social assistance under the conditions prescribed in the Law on Social Protection.

322. The Law on Social Protection established a special measure of direct support to parents of children with disabilities who take care of their children in the family surroundings: unemployed parents of children with disabilities, who are not insured on other grounds, whereas the child shall exercise the right to increased allowance for care and assistance of another person (from birth up to 26 years of age) shall be recognized the right to life-long pecuniary compensation, if they had not accomplished the right to pension on other grounds. This measure means support to the family of children with disabilities and prevents placement of children with disabilities at the institutions.

323. Also, the Law on Social Protection prescribes the establishment of a special fund for dedicated transfers to the poorest local communities in the Republic of Serbia explicitly intended for the development of certain services, which represents one of the mechanisms of support to communities not having the capacity to establish and maintain services for citizens in response to their requirements. The Ministry of Labour and Social Policy recognizes the lack of capacities and concrete services in the field concerning persons with disabilities. For this reason, the set of activities has been in progress to prepare the programmes and minimum standards, and set up the services, respectively, which will be intended, *inter alia*, to improvement of the position of persons with disabilities.

324. According to the 2003 Poverty Reduction Strategy in Serbia persons with disabilities were singled out as one of marginal social groups especially exposed to risk of poverty. The researches of the World Bank followed by the adoption of this document show that even about 70% of persons with disabilities and members of their families live at or below poverty limit. The Strategy prescribes development of support services, incitement of inclusive education and increase of employment rate, which amounted to 13% in 2003.

325. After the establishment of the Poverty Reduction team with the Office of the Vice Prime Minister of the Government of the Republic of Serbia, some focus groups

were formed for civil society to support the implementation of the Strategy and one of the focus groups was also in charge of associations of persons with disabilities.

326. On the occasion of adoption of the documents for the achievement of the Millennium Development Goals, the Republic of Serbia has recognized, in accordance with the Poverty Reduction Strategy, persons with disabilities as one of especially vulnerable social groups and explicitly included persons with disabilities in the measures for the achievement of the Millennium Development Goals.

Article 29 – Participation in political and public life

327. In the legal system of the Republic of Serbia the voting right has been regulated in the

Law on Election of the MP's⁶⁰ (LEMP) by prescribing that the right to vote and be elected for a representative to the National Assembly of the Republic of Serbia has every citizen with residence in the Republic of Serbia, who: 1) is also a citizen of the Republic of Serbia; 2) has legal capacity; 3) is over 18 years of age.

328. Also, the Law on Election of MP's prescribes that a voter not able to vote personally at polling station (a blind person, a person with disability, an illiterate person) has the right to bring with himself/herself another person who will fill in the ballot instead of him/her in the manner to be determined by him/her and perform voting respectively (Article 72 paragraph 1). The voting procedure under the circumstances of a voter not being able to vote at the polling station – a person unable or prevented from voting (Article 72a). Likewise, the Law on Local Elections⁶¹ (LLE) prescribes that a voter may also vote outside a polling station at which he/she had been registered in the electoral poll, under the conditions and in the manner established by this Law (Article 33 paragraph 2).

329. The method of direct profession of citizens has been established in the Law on Referendum and National Initiative⁶² (LRNI). Pursuant to this Law, the regulations on election of representatives shall be directly applied to the method of direct profession of persons who are not able to vote at polling stations, and vote on their own respectively, which govern the method of voting of such persons (Article 20 paragraph 3).

330. It follows from the provisions of the LEMP and the LLE that the principle of free, general equal and direct voting right had been fully applied, and that all citizens of the Republic of Serbia have active and passive voting rights under the absolutely same conditions.

331. The amendments to the election laws in 2004 allowed persons with disabilities who cannot move or persons with disabilities who walk with difficulties to vote at homes, encircling ballots to be brought to them by the members of the electoral commission in private and putting the ballots concerned in sealed envelopes to be handed over to the members of the commission who will then put it in the electoral box at the polling station. The amendments to the election laws in 2007 made it

⁶⁰ "Official Gazette of RS", Nos. 35/00, 69/02, 57/03, 72/03, 75/03, 18/04, 85/05, 101/05, 109/06 and 104/09

⁶¹ "Official Gazette of RS", Nos. 129/07 and 34/10- amended by the Decision of the Constitutional Court

⁶² "Official Gazette of RS", Nos. 48/94 and 11/98

possible to organize voting for persons with disabilities residing at the institutions for long-term placement.

Article 30 – Participation in cultural life, recreation, leisure and sport

332. The Sector of Modern Creativity of the Ministry of Culture, Media and Information Society, within the framework of the annual tender for co-financing of projects/programmes the quality of which contributes to the development and presentation of art and culture shall co-finance the projects intended to persons with disabilities and those wherein persons with disabilities are the participants. For example, through a tender 20 projects were co-financed in 2009 in the total amount of RSD 1,894,000.00. The funds in the total amount of RSD 2,620,000.00 were also awarded out of the tender.

333. Through a tender 9 projects were co-financed in 2010 in the total amount of RSD 2,400,000.00. 6 projects were financed out of the tender in the total amount of RSD 3,370,000.00. For projects in 2011, the amount of RSD 2,400,000.00 was allocated.

334. According to the National Strategy for Promotion of Sports in the Republic of Serbia for the period 2009-2013, the issue of sports of persons with disabilities is one of the strategic goals, and all the relevant activities were defined in the Action Plan adopted in 2009.

335. The Ministry of Youth and Sports (MYS) supported the implementation of the “Research of Achieved Results in the Field of Youth Policy for Vulnerable Youth Groups in 2008 and 2009”, which was conducted by the Alternative Research Centre in September 2010, according to which 24 projects were implemented in 2009, which directly referred to vulnerable youth groups (24% of the total number of projects). Persons with disabilities made up 11% of direct beneficiaries of these projects. The projects related to rendering psycho-social assistance to the young belonging to vulnerable groups, their integration in the community, reduction of poverty risk among those groups as well as to promotion of the rights and assistance to the young and their families in the exercise of rights.

336. The associations marked the lack of precise records as the basic problem faced by the young people with disabilities, which would also include young persons with severe forms of disabilities placed with families, as well as the difficulties in the exercise of rights, insufficient number of inclusion programmes and adequate offer of contents, and total exclusion from social life and invisibility of a large number of young persons with disabilities for the public.

337. At the tender for inclusion of associations in the process of implementation of the Strategy for Improving the Position of Persons with Disabilities through implementation of programmes directed towards implementation of priority strategy goals and activities planned in the Action Plan, , which is carried out by the Ministry of Youth and Sports at the annual level, three projects of the associations were financed within the period from September 2009 to March 2011, in the total value of RSD 1,744,130.00.

338. In the course of 2009 the Ministry of Youth and Sports carried out eight infrastructure projects in total aimed at construction, recovery and adaptation of the buildings for sports, recreation and leisure activities of persons with disabilities, in the total value of RSD 20,249,996.00. In the course of 2010 three infrastructure projects were carried out in total aimed at construction, recovery and adaptation of the buildings for sports, recreation and leisure activities of persons with disabilities, in the total value of RSD 15,349,815.00. It has been planned that in the course of 2011 projects in the total estimated value of RSD 18,735,130.00 will be implemented.

339. The Ministry of Youth and Sports has been financing programmes of activities of sports organizations of persons with disabilities. In 2009 and 2010 the following sports organizations were financed: the Para Olympic Committee of Serbia, the Sports Association of Persons with Disabilities of Serbia, the Sports Association for Blindness and Low Vision of Serbia, the Special Olympic Games of Serbia, the Sports Association of Deaf of Serbia.

340. In addition to financing of regular programmes, sports camps, projects from the budgetary fund, the award of national acknowledgements, prizes and scholarships for persons with disabilities is also financed from the budget of the Ministry of Youth and Sports.

Article 6 Women with disabilities

341. One of the principles the Strategy for Improving the Position of Persons with Disabilities has been based on is the principle of equality of men and women. It implies incorporation of gender equality into policies – it is of particular importance in case of the most vulnerable groups such as persons with disabilities. The Strategy for Improving the Position of Persons with Disabilities defines gender equality, specifying it means that a man and a woman have equal conditions for the exercise of full human rights and opportunities to contribute to national, political, economic, social and cultural progress, as well as to enjoy equally the benefits of progress. In addition, gender equality also includes an obligation of the Government to lead the policy of equal opportunities, to define in more details the contents of the principle of equality in certain fields of social life, especially in the sphere of economics and politics, to establish options for undertaking of measures of affirmative action in order to eliminate factual inequality, to protect the right to equality.

342. The Strategy for Improving the Position of Persons with Disabilities has set up a special goal related to development and provision of equal opportunities for women with disabilities for equal and active participation in the life of the community, and within the framework of this goal, the following measures have been prescribed:

- full development and provision of access to necessary and adequate services for women with disabilities with the aim to improve quality of living;
- awareness-raising of the society and persons with disabilities about relations between sexes, gender and disability;
- provision of information on the position of women with disabilities in relation to their social roles and particular vulnerability in relation to family violence;
- provision of information on human rights of women with disabilities (reproductive right);

- undertaking of measures to prevent violence, abuse and exploitation of women with disabilities;
- development and preparation, in co-operation with the relevant institutions and organizations of persons with disabilities the programmes of psycho-social and legal aid to women with disabilities who experienced violence, abuse and ill-treatment;
- support rendering to organizations and institutions addressing violence against persons with disabilities;
- undertaking of measures and activities with the aim to increase the level of knowledge and skills of women with disabilities for equal and active participation in the life of the community.

343. The Strategy for Prevention of Violence against Women especially singles out women with disabilities.

344. The Action Plan for the Implementation of the National Strategy for Improving the Position of Women and Promotion of Gender Equality, as a part of activities of general objective of “Increase of Participation of Women in Decision-Making Process and Achievement of Gender Equality”, prescribes, *inter alia*, the creation of pre-conditions for participation of women from groups exposed to double or multiple discrimination in the public and political life. Within the framework of this goal implementation, a promotional campaign has been planned under the title of “Capacities of Women with Disabilities”, the purpose of which is to raise general awareness of capacities of women with disabilities and to implement pilot projects and seminars intended to this group of female citizens in order to increase their participation in the public and political life.

345. The project “Improvement of Health of Women and Promotion of Gender Equality in Health Policy” prescribes a special goal – provision of availability of quality health care for women, in particular for women from groups exposed to multiple-based discrimination.

346. The National Employment Action Plan for 2011⁶³ (NEAP) classifies women to be in so-called vulnerable categories, which shall have priority together with the category of persons not easy to get employment, and in particular from rural and devastated regions, on the occasion of inclusion in the measures of active employment policy through the National Employment Agency.

347. The Law on Employment and Insurance in Case of Unemployment⁶⁴ and the Law on Professional Rehabilitation of Persons with Disabilities are based on the principles of non-discrimination and gender equality and introduce novelties in the field of employment.

348. The records concerning unemployment kept by the National Employment Agency indicated 7,156 women with disabilities on 31 December 2009, or 32.49% of the total number of persons with disabilities. Out of this number, 5,929 women have been actively looking for a job.

⁶³ “Official Gazette of RS”, Nos. 55/10 and 4/11

⁶⁴ “Official Gazette of RS”, No. 36/09

349. The records concerning unemployment kept by the National Employment Agency, indicated 6,672 women with disabilities on 31 December 2010, or 32.70% of the total number of persons with disabilities.

350. The records concerning unemployment kept by the National Employment Agency indicated 6,886 women with disabilities on 30 June 2011, or 33.16% of the total number of persons with disabilities.

351. Inclusion of women with disabilities in the measures of active employment policy in 2009:

- at employment fairs 1,298 persons with disabilities participated, of which 24.94% were women;
- the training at the job looking for club included 79 persons with disabilities, of which 31.64% were women;
- the active job looking for training was completed by 349 persons with disabilities, of which 34.50% were women;

352. Inclusion of women with disabilities in the measures of active employment policy in 2010:

- at employment fairs 1,773 persons with disabilities participated, of which 29.89% were women;
- the training at the job looking for club included 54 persons with disabilities, of which 50% were women;
- the active job looking for training was completed by 310 persons with disabilities, of which 33.87% were women.

353. In the course of 2010, 3,681 unemployed persons with disabilities registered with the National Employment Agency, of which 1,172 were women with disabilities.

354. Affirmative actions directed towards persons who cannot get employment easily and women exposed to multiple-based discrimination on the local labour market have also been included within the framework of the programmes and measures intended for women in the National Employment Action Plan for 2010.

Practice

355. According to the report “Women with Disabilities in Serbia”⁶⁵ by the “...Iz Kruga” association, an organization for the protection of rights of women and support to women with disabilities of Serbia and the Monitoring and Evaluation Centre from December 2009, in spite of the activities of the Republic of Serbia in the field of improvement of the rights of women, the position of women with disabilities has not been recognized in an adequate way. An analysis of “Women with Disabilities in Serbia” illustrates invisibility of women with disabilities and lack of legal response to specific forms of violence and discrimination they are exposed to because of their different position. Women with disabilities remain “three steps behind” in respect of the rights enjoyed by other male and female citizens. Their multiple-based

⁶⁵ The internal review of the report is contained in Annex II.

discrimination is not addressed by laws and there is no social action, but only declarations directed to resolution of this issue.

Article 7 Children with disabilities

356. The Republic of Serbia will stand with all the views expressed in paragraphs 94-95 of the Initial Report of the Republic of Serbia to the Committee on the Rights of the Child (CRC/C/SRB/1).

357. Within the framework of the process of implementation of the Strategy for Development of Social Protection and the National Action Plan for Children, the Ministry of Labour and Social Policy, in co-operation with UNICEF, completed three-year activities for the implementation of the project “Transformation of Residential Institutions for Children and Development of Sustainable Alternatives”⁶⁶. A group of project activities concerns the development of fostering with special focus on the development of so-called specialized fostering, *inter alia*, also for children with disabilities, as well as to review of acting of medical workers at maternity hospitals and it also concerns prevention of placement of children with disabilities at social protection institutions. “The Comprehensive Plan of Transformation of Residential Social Protection Institutions for Children from 2009 to 2013” was prepared as the outcome of activities of the institution transformation group. This documents ensure planned acting of the social protection system and helps those who make decisions to plan the method, time and framework of decrease of total capacities of the institutions for placement of children (for 50% within the period of 5 years), improvement of protection quality at the institutions concerned (through strengthening of expert capacities and improvement of the placement conditions) and changing over of a part of the capacities of these institutions to development of services in the local community for rehabilitation and support to children. In April 2010 the elements of the plan were also adopted by the Government, as the Decision on Network of Social Protection Institutions for Placement of Beneficiaries⁶⁷. This should be stressed in particular because it was planned that the capacities of the institutions for children, which remain free and at the disposal, would be changed over to development of services in the local community for support and rehabilitation of children, also including children with disabilities and difficulties.

358. During the implementation of the project, the co-operation with the Ministry of health was reached with the aim (a) to prevent placement of children born with risk or

⁶⁶ Within the framework of activities for the improvement of protection of children without parental custody and intensification of application of protection measures for children in less restrictive environment, the Ministry of Labour and Social Policy signed an Agreement with UNICEF on implementation of the project “Transformation of Institutions for Placement of Children and Development of Sustainable Alternatives – A Child’s Place is within the Family“, which is funded by the EU. This project included four segments of improvement of protection of children without parental custody: (1) transformation of institutions for children; (2) improvement of monitoring and regulatory mechanisms at institutions; (3) development of specialized fostering and (4) strengthening of the role of medical system in early support to family with the aim to prevent institutionalization of children with disabilities. This project was nearly EUR 2 million worth.

⁶⁷ The decision governs the network of social protection institutions for placement of beneficiaries established by the Government, and the competent authorities of the autonomous province, respectively. The decision was adopted in accordance with tendencies and principles of reform of the social protection system and the key national documents, and defined the basic activities of social protection institutions for placement of beneficiaries and established precisely the capacity in accordance with already achieved results of the reform of social protection system, actual needs and commitments to apply less restrictive protection measures.

severe mental or physical difficulties at the social protection institutions immediately after birth, directly from maternity hospitals and (b) to organize education for the employees of the social protection institutions regarding use of physical suppression (constrain) of beneficiaries placed at the social protection institutions for children and adults with disabilities, in compliance with international conventions and standards for protection of this group of beneficiaries. The guidelines (procedures) for support to parents having children with disabilities were also formulated and the activities aimed at strengthening of the role and capacities of field services were also implemented.

Practice

359. The number of children with disabilities registered with the social welfare centres indicates the tendency of constant increase each year. In 2007 there were 10,927 of these children and in 2008 there were 11,512 of them while in 2009 their number was increased to 12,315.

360. The Table below shows the number of children with disabilities placed at the social protection institutions, including presentation of fluctuations within the last 5 years⁶⁸.

Year	Up to 18 Years	from 18 to 26	Total
2006	840	741	1,581
2007	757	740	1,497
2008	683	716	1,399
2009	611	683	1,294
2010	530	671	1,201

361. Support to the process of deinstitutionalization also has the dimension of increase of living quality of children placed at the social protection institutions. Within this issue, the project “The World I Belong to – Natural Environment for Children with Mental and Physical Disabilities” was implemented in the course of 2008, in partnership of the Centre for Protection of Infants, Children and Youth in Belgrade and the Savski Venac Society for Assistance to Mentally Challenged Persons and the Stari Grad Society for Assistance to Mentally Challenged Persons. The objective of the project was to ensure assistance and support to children with disabilities placed at the institution concerned. The project resulted from the necessity to co-ordinate the quality of protection of these children with their best interest and the best interest of their natural family. The engagement of volunteers, who make the world of these children richer having intensive contacts with them and in partnership with their children, gradually creates the pre-conditions for the return of children to their natural environment. The implementation of the project was supported by the Ministry of Labour and Social Policy.

362. The festival of theatre performances of children with disabilities placed at the social protection institutions, children without parental custody and children from the local community was organized for Easter holidays in 2010. The festival “A Flower on My Palm” lasted for a month and was organized by the Sector for Care of Families and Social Protection, “Dr Nikola Šumenković” institute for children and persons

⁶⁸ Source – the data from the Information System of the Ministry of Labour and Social Policy.

with disabilities, the local self-government of Petrovac. The festival “A Flower on My Palm” as well as all accompanying activities were aimed at integration of persons with mental disabilities in the wider social community and elimination of prejudices about them present in the society.

Also, the first inclusive festival “Musical Notes for Everyone” at the level of the entire Republic of Serbia was organized by the “Male Pčelice” institute for placement of adults. The festival lasted for 3 days in the course of November 2010 and had about 400 participants.

Article 31 – Statistics and data collection

363. The Statistical Office of the Republic of Serbia publishes the data issued by the institutions in the field of social protection. The institutions concerned include those for placement of children and youth, for placement of adults, for professional rehabilitation of persons with disabilities and social welfare centres. The data are obtained through regular statistical researches carried out in two-year period and relate to the territory of the Republic of Serbia.

364. In the field of social protection, based on annual reports on the activities of the institutions for placement of children with disabilities, institutions for placement of persons with disabilities, institutions for placement of the old, the data are obtained about the number of institutions, number of placed beneficiaries – classified per sex, age, type of disability, parents, method of payment for placement, education, etc.

365. The annual reports on the activities of the institutions for professional rehabilitation provide the collection of data on rehabilitation and training of persons with disabilities at protection workshops, institutions and facilities for professional training.

366. The data on social protection of under-aged beneficiaries and beneficiaries of age are collected from the welfare centres each year on prescribed statistical forms.

367. Statistical monitoring by the Ministry of Labour and Social Policy is carried out through an analysis of annual reports on the activities of the institutions for placement of beneficiaries as well as from the social welfare centres as the recipient bodies and custody bodies. The definitions of disability in accordance with strategic and legal objectives are used on the occasion of data collection.

368. The preparation of a by-law act on records and documentation of those rendering social protection has been in progress in accordance with the Law on Social Protection. Since the new Law on Social Protection shall ensure pluralism in the field of rendering of services of social protection (institutions and organizations of social protection financed from the budget, associations, entrepreneur, company, etc.), this by-law shall introduce an obligation of preparation of regular reports on the number of beneficiaries of services, types of rendered services, application of quality standards, number of appeals and claims by beneficiaries regarding the use of services, etc. All the above also includes the services intended for persons with disabilities.

369. At the same time, under the organization of the Social Protection Institute of the Republic of Serbia, an innovated reporting system is being introduced for all providers of social protection, which will ensure in future more efficient collection and processing of data about beneficiaries and rendered services, on spreading and coverage of services in the community, which are also intended for persons with disabilities, in compliance with indicators to be monitored in accordance with the international standards of protection of human rights.

Article 32 International cooperation

370. Within the framework of the United Nations and other international organizations the Republic of Serbia has been active in supporting resolutions, decisions and other documents regarding protection and rights of persons with disabilities. It was one of sponsors of the Resolution on Implementation of Millennium Development Goals for persons with disabilities until 2015 and after this period (A/RES/65/186), the resolution on the activities for the implementation of the Convention on the Rights of Persons with Disabilities and the pertaining Optional Protocol (A/RES/64/154); with the Human Rights Council, the Resolution on the Role of International Cooperation in Support to National Efforts for Realization of Rights of Persons with Disabilities (A/HRC/RES/16/15).

UNDP in the Republic of Serbia supported the preparation of the draft of the Strategy for Improving the Position of Persons with Disabilities, process of harmonization of national regulations with the provisions of the Convention and ratification of the Convention appointing a legal experts to be at the disposal of the Ministry of Labour and Social Policy, the preparation of the draft of the Law on Use of Serbian Sign Language, the draft of by-laws for the implementation of the Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD), the draft of Law on the Prohibition of Discrimination of Persons with Disabilities (LPDPD), as well as the activities of the Social Innovation Fund and the Global Agreement. UNDP also supported the reform of companies for professional rehabilitation in cooperation with the Government of the Kingdom of Norway. Through DILS programme the World Bank supported capacity strengthening of associations of persons with disabilities in cooperation with the Ministry of Labour and Social Policy. The same ministry supported the promotion of the Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) in cooperation with the representative associations of employers and trade unions. EU supported the feasibility study of employment reform for persons with disabilities in Serbia, the projects of associations of persons with disabilities aimed at promotion of anti-discrimination regulations and preparation of the shadow report on the implementation of the Convention. DFID supported the preparation of the draft of standards of social protection services, including the service of personal assistants, daily care institutions and supported living. The Development Agency of the Republic of Ireland supported the pilot project of personal assistant service. The Government of Austria supported the exchange of experience in the field of employment and professional rehabilitation. USAID supported local projects for elimination of architectural barriers in several towns in Serbia. The Kingdom of Sweden supported several projects aimed at improvement of living quality of persons with disabilities. The British Council supported an inclusion project in the field of culture. Oxfam and Handicap International systemically supported development and capacity strengthening of organizations of persons with disabilities in the Republic of

Serbia. UNICEF systemically works on the support to projects aimed at inclusion of children and young with disabilities in the Republic of Serbia.

Article 33 – National implementation and monitoring

371. The Law on Ministries set up the competence of the Ministry of Human and Minority Rights, State Administration and Local Self-Government, Directorate of Human and Minority Rights, for, *inter alia*, preparation of regulations on human and minority rights, monitoring of compatibility of national regulations with international treaties and other international acts on human and minority rights.

372. The following organizations have been included in the process of preparation of reports: the National Organization of Persons with Disabilities (umbrella association of persons with disabilities in the Republic of Serbia), the Association of Handicapped Students, “...Iz Kruga”, Society Orientation Centre/Regional Centre for Supervision of Rights of Persons with Disabilities, “Živeti Uspravno” Center, the Inclusive Society Development Centre, the Centre for Independent Living of Persons with Disabilities of Serbia, Cross Disability Network (CRID) and the Coalition of Associations gathered in Mental Disabilities International - Serbia (MDRI).

373. After the consultations at the meeting of the task force, the principle was adopted stipulating that associations may directly participate in the preparation of reports submitting supplements and participating in the activities of the task force, and also indirectly, in the form of comments to the working version and the draft of the report. Women participated in the task force for the preparation of the report with more than 75%.

374. The draft of the report was published on the Internet page of the Directorate of Human and Minority Rights, including contact information by means of which the interested associations could send their comments.

Annex I – Statistical Data

1. The total budgetary investments in institutions for placement of persons with disabilities amounted to about RSD 384,386,267. The funds were most often spent for various repairs, adaptations, constructions and for procurement of various working equipment. As shown in the Table below, in 2010 the investments were even four times and five times, respectively, higher than in previous years.

Total Investments – Years	Investments	Equipment	Total
Total investments in 2008	81,603,395	15,945,851	97,549,246
Total investments in 2009	37,707,858	22,715,390	60,423,248
Total investments in 2010	196,772,438	29,641,335	226,413,773
Total	316,083,691	68,302,576	384,386,267

2. Table – Adults per Type of Disability

Adults per Type of Disability	2006	2007	2008	2009
Bad sight and hearing	2,41	2,464	2,482	2,547
Mental disability	9,372	9,795	10,469	10,856
Mental disease	9,378	9,558	9,807	10,260
Severe physical difficulties	11,980	13,118	12,605	13,237
Other disabilities	5,044	7,283	7,166	8,157
Total	37,915	42,218	42,529	45,057

3. The Family Law introduced compulsory specialization of judges acting in family cases in the field of the rights of the child (Article 204), and the very specialization programmes has been defined in the Rulebook on programme and method of gaining special knowledge in the field of the rights of the child of judges deliberating in the proceedings related to family relations (“Official Gazette of RS”, No. 44/06). This Rulebook prescribes an obligation of the Judicial Academy to carry out and organize training to obtain relevant certificates (Article 10). This programme includes specific training in the field of the rights of the child, legal consequences of marriage and common-law marriage, child’s opinion and domestic violence. From the time of the Family Law entering into force in July 2006 to April 2009, the Judicial Academy organized 18 seminars attended by more than 525 judges from all courts obtaining relevant certificates and 45 one-day seminars on the subject “The Family Law–Principles and Guidelines”, which was attended by 735 judges. Within the period from June 2006 to April 2009, within the Sector for Civil and criminal Law of the Ministry of Justice, 74 one-day seminars were organized on the subject “Domestic Abuse – Civil and Criminal Legal Aspects and Execution in Family Matters”, attended by 987 judges and public prosecutors and their deputies.

4. Table: Review of the Number of Children and Youth Victims of Violence Reported by the Custody Authorities (Social Welfare Centres) in the Regions of Serbia⁶⁹

Region of Serbia	Children and Youth – Victims of Violence				
	2005	2006	2007	2008	2009
Central Serbia	1,225	1,556	1,401	1,452	1,561
Vojvodina	709	968	528	889	869
Kosovo	48	54	50	6	26
Belgrade	293	193	281	811	865
Serbia in total	2,275	2,771	2,260	3,158	3,321
Index of growth	100.00	121.80	99.30	138.80	145.90

5. Table: Review of the Number of Adults and Elderly Persons Victims of Violence Reported by SWC, in the Regions of Serbia⁷⁰

Region of Serbia	Adults and Elderly People – Victims of Violence				
	2005	2006	2007	2008	2009
Central Serbia	374	1,078	1,964	1,973	3,382
Vojvodina	195	1,176	962	1,119	2,028
Kosovo	19	34	43	4	39
Belgrade	82	155	145	1,458	2,071
Serbia in total	670	2,443	3,114	4,554	7,520
Index of growth	100.00	364.60	464.80	679.70	1,122.40

6. The total number of registered victims of violence in the course of 2009 amounted to 7,520 and out of this number the largest portion relates to adults, while women and children together make more than two thirds. These data also contain data on violence committed against persons with disabilities, but there are no especially kept records of such issues.

7. Table: Total Number of Family Members Reported as Victims of Violence and Their Structure per Sex⁷¹

Members- Victims of Violence	Female	Male	Total
Children	1,707	1,419	3,126
Adults	3,270	341	3,611
Elderly persons	569	214	783

8. Within the period from 2006 to 2009, in respect of the total number of cases of domestic violence (including violence against children), partners are prevailing in the structure of perpetrators.

9. Table: Number of Families with Reported Violence per Violence Perpetrator⁷²

Perpetrator	Number of Families
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⁶⁹ The Social Protection Institute of the Republic of Serbia, “Analysis of Report on the Activities of Social Welfare Centers in Serbia, 2009”. The Social Protection Institute of the Republic of Serbia, Belgrade, 2010.

⁷⁰ Ibid

⁷¹ Ibid

⁷² Ibid

	2006	2007	2008	2009
Father	976	863	1,211	1,281
Mother	432	219	316	274
Both parents	605	193	244	200
Brother/Sister	119	608	837	115
Married couples/common-law partner	133	1,496	2,434	2,310
Other	18	93	191	898
Reported families – total	2,283	3,472	5,133	5,078

10. For illustration purposes, it is stated in the Analysis of the Report on the Activities of Social Welfare Centres that in 2008 and 2009 in the structure of cases of violence reported to the social welfare centres the largest number of them was reported by the police.

11. Table: Structure of Reported Families per Method of Domestic Violence Detection (2008-2009)

Method of Detection	Number of Families	
	2008	2009
Reported by police	1,908	1,924
Reported by family member	1,791	1,681
Court request	517	478
Reported by institution (school, health centre, nursery school, etc.)	360	296
Reported by another person not being family member	341	338
<i>Ex officio</i> custody authority	258	274
Reported by non-governmental organization	30	28
Total number of families	5,205	5,019

12. Table: Number and Structure of Adopted Court Protection Measures against Domestic Violence in 2009

Type of Adopted Court Measure	Number of Measures
Prohibition to be close to a family member at certain distance	307
Prohibition of further harassment of a family member	258
Prohibition of access in the area surrounding the place of residence or work	151
Issuance of order for flat or house vacation	95
Issuance of order to occupy family flat or house	12
Total number of adopted measures	823

13. In 2009 the Ministry of Labour and Social Policy, Department of Inspection Supervision carried out the following inspection supervision (extraordinary, regular and control ones) at the following institutions for placement of persons with disabilities: "Sremčica" Home in Sremčica; "Dr Nikola Šumenković" Home in Stamnica; "Izvor" in Paraćin; "Gvozden Jovančičević" Institution for Placement of Adults in Veliki Popovac; Institution for Placement of Adults in

Tutin; “Male Pčelice” Institution for Placement of Adults in Kragujevac; “Sremčica” Home in Sremčica.

14. 246. In 2010 the Ministry of Labour and Social Policy, Department of Inspection Supervision carried out the following inspection supervision (extraordinary, regular and control ones) at 7 institutions for placement of persons with disabilities, as follows: “Veternik” Institution in Novi Sad; Institution for Placement of Adult Persons with Disabilities in Doljevac; Institution for Adult Persons with Disabilities in Belgrade; Institution for Placement of Adult Persons with Disabilities in Tutin; Home for Adult persons with disabilities in Belgrade – upon application; Home for Placement of Adults in Kulina and Home for Placement of Adults in Tutin. Inspection of acting: 9 inspection supervisions were carried out in continuity at the Home for Placement of Adults in Kulina (within the period from 28 October to 3 December 2010).

15. The pilot project “Deinstitutionalization of Persons with Mental Disabilities and Placement in Supported Housing Community”, at “Sremčica” Home, has been in progress for three years already and included 23 beneficiaries, who are included in the programme of supported housing.

16. **Funds:** The partnership between the state and other providers of services intended for children with disabilities has been increasing within several last years, since the establishment of the Social Innovation Fund (SIF) and the Fund of Persons with Disabilities (FPD). Since 2003 when the SIF issued the first tender, design financing of new services in the community was intensified, also including those intended to children with disabilities, thus using the opportunities in the surroundings in a flexible manner (donations, expert support, etc.) to encourage positive changes before they are systemically formed. The Social Innovation Fund supported within the scope of its fourth tender (for 2007/2008) eight projects in total for development of training programmes and treatment of children and young in the forms of protection outside institutions. Out of eight projects of this type, performed through the Social Innovation Fund, four projects refer to children with disabilities.

17. In 2008, through the tenders of the SIF, 116 projects in 49 towns in Serbia were supported.

18. Out of the mentioned 116 projects, 98 were aimed at direct improvement of the position of persons with disabilities.

Type of Project Activity	Number of Projects	Amount
Prevention of institutionalization and deinstitutionalization (supported housing with assistance)	21	21,436,264.80
Daily activities in local community (stimulating and inclusion programmes and intensive daily activities – daily care)	40	29,483,661.91
Promotion of the principle of equal	19	13,989,089.84

opportunities of persons with disabilities (campaigns)		
Improvement of accessibility of physical surroundings (elimination of architectural barriers)	12	8,794,427.87
Application of auxiliary (assistance) technologies with the aim to enable better social integration of persons with disabilities	6	4,603,472.80
Total	98	78,306,917.32

19. In the course of 2009 the SIF issued a tender aimed at the development of daily care service and support to establishment and improvement of this service, in local communities in Serbia. According to this tender, the services of daily care are also intended for children with disabilities. The funds for the implementation of the tender in the amount of EUR 370,000 were received from the European Union.

20. *Daily Care Service for Adults* has been showing increase (data obtained from social welfare centres). This number increased from 529 persons in 2007, 980 persons in 2008 up to 1,076 persons in the course of 2009. There is a very positive trend in respect of protection of this type for persons with disabilities since the number of local authorities providing funds for daily care has been increased more than double within the period from 2007 to 2009. For example, in 2007 there were 26 municipalities in total financing daily care in their territories and in 2009 there were even 56 municipalities that had worked out this form of aid for people living in their territories. According to the data of social welfare centre, in the course of 2009, there were 1,326 children using the service of daily care.

21. *The National Investment Fund (NIP)*: Within the period from 2007 up to now, the funds of the NIP were used to adapt, reconstruct or construct the buildings for daily care in the following municipalities: Daily Care for Children with Disabilities – Priboj; Daily Care for Children with Disabilities – Zaječar (adaptation of the building; the value estimated to be RSD 1,900,000, of which from the NIP – RSD 1,186,100.52); Daily Care for Children with Disabilities – Jagodina (the construction of the building has not been completed because the municipality of Jagodina did not fulfil its obligations; capacity of 40 children and the value of contracted works at the time of the contract signing amounted to RSD 8,400,000); Daily Care for Children with Disabilities – Lebane (adaptation of the building; the value estimated to be RSD 1,700,000, of which from the NIP – RSD 1,700,000); Daily Care for Children with Disabilities – Paraćin (adaptation of the building; the value estimated to be RSD 2,750,000, of which from the NIP – RSD 2,186,100).

22. The funds from the donation by Raiffeisen Bank were used to adapt the building for daily care for children with disabilities in Valjevo.

23. More than EUR 3 million were allocated from the National Investment Plan in 2009 to continue the implementation of the project of adaptation of a part of premises at the social protection institutions to place children without parents and to place children with disabilities and assign the premises to local communities to establish

services preventing placement at institutions and support families with children. These funds were also used to raise the quality of housing for children with disabilities. Also, it was planned to continue the project with the funds in the amount of almost EUR 5 million for the construction of flats for supported housing for young persons with disabilities who are leaving the institutions. For the continuation of the project of construction of daily care units for children with disabilities in local community the value of more than EUR 1.6 million was allocated (IPA funds).

24. Within the framework of large three-year project “Support to Implementation of the Strategy of Social Protection Development” supported by the British Government through DFID and the Ministry of Foreign Affairs of Norway, the Ministry of Labour and Social Policy allocated the funds based on two tenders for the projects of social protection according to local strategies, for the development of services in local community. In 2008 the funds in the amount of RSD 36,622,252 in total were allocated for 13 projects from 11 municipalities for the development of services related to children with disabilities and persons with disabilities. In 2009 with the amount of RSD 21,430,128.76 another 13 projects were financed, related to this group of beneficiaries. This project specified GBP 300,000 and EUR 1 million for grants to municipalities.

25. In April 2010 the agreement on cooperation was signed with the Open Society Fund and the Ministry of Labour and Social Policy regarding the project “Development of Local Services of Social Protection in Serbia”, which secured grants for the municipalities in the amount of RSD 22,893,300. The tender was issued on 6 September 2010. Out of received 45 applications from the municipalities, 35 were selected, and out of this number 17 projects concerned persons with disabilities. This project was completed on 31 December 2010.

26. At the end of 2010 the Ministry of Labour and Social Policy issued a tender for the poorest municipalities for the development of services and assistance in the field of social protection in the amount of RSD 400 million. 69 local self-governments applied for the tender with 98 projects in total and out of this number even 40 financed projects concerned persons with disabilities.

27. **EU Pre-Accession Funds:** In November 2010, the EU Delegation to Serbia issued a tender for the support to establishment and improvement of local social services intended to children with disabilities, in the framework of which local self-governments would be awarded EUR 3 million. The funds would be allocated for the development and improvement of services in local communities, such as home assistance, daily cares and personal assistants. This tender would support the development of the services that may prevent institutionalization and ensure necessary support to parents so that a child with disabilities would remain living with his/her family. With the aim to affirm the regional approach in the development of social services in local communities, the right to apply for the tender has been prescribed for the groups of at least 4 municipalities. The value of individual grants varies from EUR 200,000 to EUR 400,000 and local self-governments shall participate with 10% at least. The tender is intended for all municipalities having set up social services for children with disabilities and not having sufficient funds to improve them as well as to those municipalities that had not done it yet. This tender presents one component of the “Social Inclusion” programme, IPA 2008, which is

financed by the EU and carried out under technical assistance of UNICEF in cooperation with the Ministry of Labour and Social Policy.

28. At the 2010 tender for improvement of the position of persons with disabilities **89 projects** were supported, in the total value of RSD **71,363,404.65**.

29. The groups of activities supported at the 2010 tender for improvement of the position of persons with disabilities are as follows:

- **Prevention of institutionalization and deinstitutionalization;**
- **Improvement of accessibility of surroundings physically;**
- **Support services for independence of beneficiaries.**

30. Within the framework of priority group of activities in the field of prevention of institutionalization and deinstitutionalization, the following services were supported:

- **Supported housing for persons with disabilities** means a service at the local level the basic purpose of which is to support the exercise of rights and needs of persons with disabilities to accomplish the highest possible level of independence, in order to improve quality of living and make better social integration.
- **Daily care for persons with disabilities** is a service enabling children, adults and old persons with disabilities to stay with their families and to meet their requirements in the surroundings they live in, in their natural environment thus avoiding placement at the institutions. This service shall provide structured activities aimed at the development of practical skills for everyday living, ensuring independence, progress and maintenance of social, cognitive and physical functions to the greatest extent, with the aim to provide assumptions for their inclusion in the community life. This service shall render to beneficiaries positive and constructive experience of stay outside families. At the same time families are enabled to have some spare time to perform other activities.
- **Stimulating and inclusion programmes** intended for children, adults and old persons with disabilities mean a service implying activities aimed at stimulation of potentials of beneficiaries, incitement of better social integration of persons with disabilities and expansion of social contact network, namely activities aimed at the improvement of living quality in order to maintain physical and mental health of persons with disabilities. The programmes from this group of activities imply the activities aimed at the development of remaining abilities of persons with disabilities for better independent functioning and easier inclusion in the social community, which are directed towards gradual increase of sensitivity and understanding of needs and capabilities of persons with disabilities by the general population, ensuring at the same time accessibility of contents and activities to beneficiaries also used by general population in the local community.

31. Within the framework of this group of activities, old persons with disabilities were mentioned for the first time and service aimed at improvement of quality of living of old persons with disabilities through the support in maintenance of physical

and mental health of old persons with disabilities and integration programmes for old persons with disabilities in the local community.

32. Services intended to old persons with disabilities should ensure the following types of support:

- Assistance in procurement of essentials and performance of activities prevented due to disability (procurement of food, payment of bills, etc.);
- Assistance in performance of preventive medical care (blood pressure and sugar level measurements, procurement of medicines, etc.);
- Psycho-social support;
- Socialisation and re-integration of old persons with disabilities in the local community.

33. The largest number of project proposals was supported within this project priority, namely 51 projects were supported.

34. As in the previous years, the Ministry of Labour and Social Policy shall render support to those activities aimed at **elimination of architectural barriers** so that persons with disabilities shall have access to full and equal participation in the community life. Within this priority the adaptations of premises were supported in order to ensure physical accessibility to surroundings for persons with disabilities, in accordance with the standards of accessibility established by positive regulations of the Republic of Serbia. Likewise the 2009 Tender Cycle, within this priority group of activities, the applicants had an obligation to also provide, in addition to preliminary technical design solutions, the partnership with the local self-government in order to join the resources of all stakeholders in provision of accessible surroundings for citizens with disabilities. Within this second group of priorities, **3 project proposals** were supported.

35. The third group of services were support services for independence of beneficiaries consisting of 2 groups of education:

- Education for awareness-raising of persons with disabilities and large public about persons with disabilities for the purpose of their more successful social integration having the aim to inform the social community with the essence and importance of social model of disability, as well as education for incitement of active living and support independence of persons with disabilities.
- Education for capacity strengthening of organizations for persons with disabilities in order to provide more programmes and better services for persons with disabilities. These educations are also aimed at improvement of activities of organizations of persons with disabilities, strategic thinking and better positioning in the surroundings with the aim to ensure sustainability of their activities. These educations refer to organizational management, skills for preparation of project proposals, management and administration of projects, financial management, team work and settlement of conflicts in team work, public negotiations and representation of interests of beneficiaries and educations in the field of establishment of partnership at the level of local community.

36. 35 projects were supported within this group of activities.

Табела 1.- Подела према групама активности (услуга)

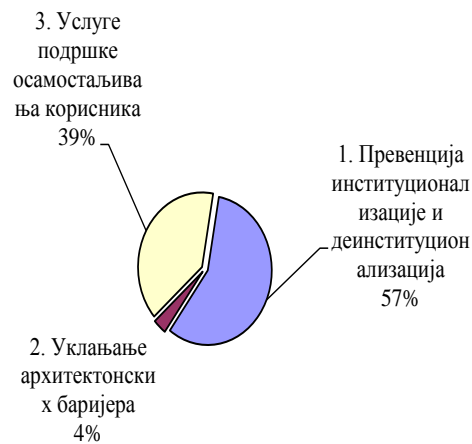


Table 1 – Distribution According to Group of Activities

1. Prevention of institutionalization and deinstitutionalization 57%
2. Elimination of architectural barriers 4%
3. Support services for independent living of beneficiaries 39%

37. One of important criteria of the Tender was the implementation of project activities in territory of the Republic of Serbia, so the following territorial distribution of project activities according to approved projects at the Tender for improvement of the position of persons with disabilities was as follows:

- In the territory of **the central region of Serbia 27 projects** were supported, namely 31% of the total number of approved projects;
- In the territory of **the south and the east regions of Serbia 19 projects** were supported, namely 21% of the total number of approved projects;
- In the territory of **Vojvodina 21 projects** were supported, namely 24%,
- While **in the territory of Kosovo and Metohija 2 projects** would be implemented, being 2% of the total number of supported projects.
- In view of a very large number of organizations and beneficiaries in the territory of the City of Belgrade, the number of approved projects in **Belgrade** amounts to **20**, namely to 22%. However, it is important to mention that a considerable number of project proposals from this group is also intended for beneficiaries from other towns in the central Serbia and in Vojvodina, respectively.

Табела 2 - Територијална распоређеност пројеката

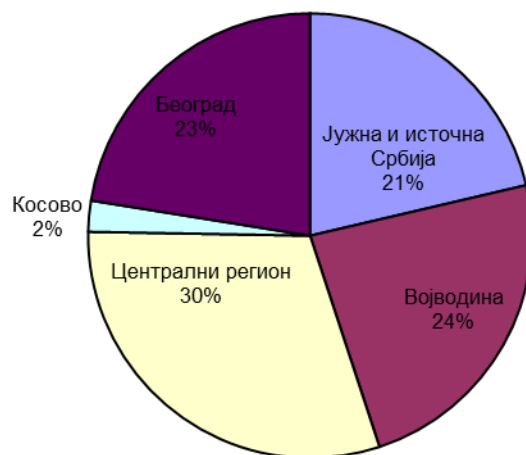


Table 2 – Territorial Distribution of Projects

Belgrade 23%, The South and East Serbia 21%, Kosovo 2%, The Central Regions 30% and Vojvodina 24%

38. The disbursement of resources in relation to the above mentioned regions is as follows:

- For the projects to be implemented in **the central region of Serbia RSD 22,688,359.24** were allocated;
- For the projects to be implemented in **the south and the east regions of Serbia RSD 14,401,171.57** were allocated;
- For the projects to be implemented in the territory of **Vojvodina RSD 13,329,513.10** were allocated;
- For the projects to be implemented in the territory of **Kosovo and Metohija RSD 960,000.00** were allocated;
- For the projects of organizations from the territory of the City of Belgrade **RSD 19,984,360.74** were allocated.

Територијална распоређеност пројеката

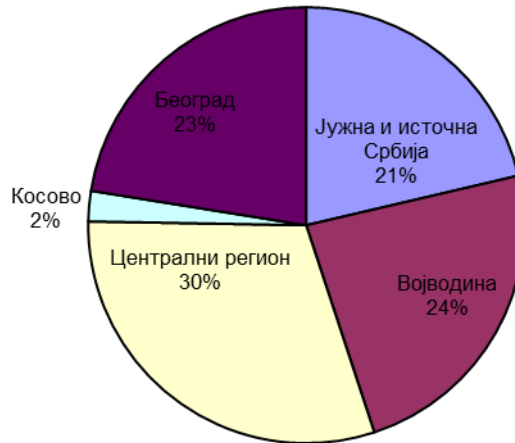


Table 3 - Territorial Distribution of Projects
Belgrade 23%, The South and East Serbia 21%, Kosovo 2%, The Central Regions 30% and Vojvodina 24%

39. In respect of **the target group**, approved projects may be classified as follows:

- The largest number of **34 projects**, namely 38% of the total number of approved projects prescribe activities intended for **mentally challenged beneficiaries**;
- **23 projects**, namely 26% are projects for **the mixed group of beneficiaries**;
- **Persons with physical disabilities** are beneficiaries of **22 projects**, which makes 25% of the total number of approved projects;
- The number of projects intended for **blind and visually impaired persons** is **5**, namely 6% of the total number of approved projects;
- **Deaf and hard of hearing persons** are primary beneficiaries of 3 projects, namely in 3% of approved projects;
- The smallest number of projects – **2 projects**, namely 2% of the total number of approved projects is intended for **disabled workers**.

40. Please note that this Tender Cycle approved the project the activities of which are intended for children with disabilities of the Roma population. Since the children have different types of disabilities, the above mentioned project proposal was classified to the group of projects having mixed group of beneficiaries.

Табела 4- Подела према обухваћеним циљним групама



Table 4 – Classification According to Included Target Groups

41. The implementation of project activities according to approved projects started in the middle of June 2010, and since the maximum duration of project activities is 9 months, the 2010 Tender Cycle for Improvement of the Position of Persons with Disabilities will be completed in March 2011.

42. Example: “Sunce” Daily Care Centre in Ivanjica received support from the funds of the EU to continue the project related to assistance and support for children with disabilities from rural areas and their biological families. The implementation of this up to now unique programme in Serbia started in October 2010 thanks to the Ministry of Labour and Social Policy. The project in the value of EUR 18,000 shall include 24 children and their families. The objective of the project is to maintain biological family and prevent institutionalization of children with disabilities from rural areas.

43. The results of the Ministry of Labour and Social Policy within the last three years in the process of deinstitutionalization of children are as follows:

- The total number of children and young (up to 26 years of age) at the institutions of social protection was decreased for 29.5% within the last three years;
- The total number of children with foster families was increased for 27%;
- According to the assessment of the Ministry of Labour and Social Policy, the number of children with disabilities coming to be placed at the institutions directly from maternity hospitals and specialized children hospitals/wards was decreased;

- The assumptions have been created at the existing institutions for children without parental custody for their gradual transformation to small home communities for children with disabilities;
- The system of fostering has been strengthened and responds to the requirements of children much better, especially to the children from the most vulnerable groups, focused on children with disabilities;

44. Until 2000 the number of children was approximately the same as the number of children with fostering families.

Year	2000	2004	2005	2006	2007	2008	December 2009	January 2010	January 2011	March 2011
Number of children without parental custody at the institutions for children without parental custody	2,047	1,779	1,638	1,645	1,472	1,144	1,006	981	891	834
Number of children placed with fostering families	2,363	2,452	3,399	3,339	3,647	4,236	4,770	4,797	5,159	5,188

45. In January 2010 there were 3,533 fostering families in Serbia, and in January 2011 there were 3,771 such families. In March 2011 there were 3,802 fostering families in total.

46. Also, within the last few years a considerable number of training programmes has been accredited for professionals in the field of social protection for fostering, and within the last two years another 5 programmes. The total number of 550 professionals was included in training within this type of programmes. Training courses were also arranged for about 220 fostering parents, with special focus on knowledge and skills regarding care for children with disabilities.

47. The Ministry of Economy and Regional Development issued about 30 approvals for the implementation of measures and activities of professional rehabilitation to the mentioned companies for various types of jobs in the production and service activities for the purpose of training courses in 2011.

48. With the aim to raise the level of competences of direct employees as well as of associates engaged to develop the programmes and measures of professional rehabilitation of persons with disabilities and implementation of the same, the first cycle of training was organized on the subject of "Professional Rehabilitation and

management of Professional Rehabilitation Process”, for 9 instructors for two weeks who would transfer knowledge to other employees of the National Employment Agency.

49. Also, three workshops were organized attended by 29 advisors for work with persons with disabilities on the subject: motivation and activation of persons with disabilities; performance of social questionnaire in practice and assessment of the need for adjustment of work posts. Workshops were also organized for 20 advisors for work with persons with disabilities on the subject of definition of measures of professional rehabilitation in relation to the category of disability, assessed work capacity and conditions on the labour market.

50. In 2009 at the Tender for Co-Financing of Projects/Programmes in the field of public information system, three projects were approved for persons with disabilities in the total amount of RSD 1,736,493.00.

51. In view of the fact that persons with disabilities need a higher level of support, in additions to tenders, considerable funds are also allocated for regular annual financing of magazines for persons with disabilities, which are printed and distributed through organizations of persons with disabilities. For example, in 2009 there were five co-financed magazines in the total amount of RSD 1,698,850.00.

52. Within the framework of the Tenders for Co-Financing of Projects/Programmes, contributing by their quality to development and presentation of art and culture in 2009, the Ministry of Culture, Media and Information Society co-financed 19 projects in the amount of RSD 1,744,000.00. Two projects were co-financed outside the Tender in the amount of RSD 2,720,000.00.

53. The Ministry of Culture, Media and Information Society financed one project in 2009 at the Tender for Co-Financing of Projects in the Field of Cultural Heritage in the amount of RSD 474,000.00.

54. In **2009** for regular financing of programmes of publishing and librarian activities for the blind, the Ministry of Culture, Media and Information Society granted to the Association of the Blind of Serbia RSD 8,000,000.00.

55. In **2010**, with the aim to make it possible for persons with disabilities to accomplish the right to information to the largest possible extent, the Ministry of Culture, Media and Information Society issued for the first time a separate Tender for Co-financing of Projects/Programmes in the field of information for persons with disabilities. The subject of the tender concerned is co-financing of printed and audio-visual contents of organizations of persons with disabilities and co-financing of programmes contents of public media intended for information of persons with disabilities. The objective of the tender is to raise the level and quality of information of persons with disabilities (the blind and the deaf) by means of special adjusted techniques as well as the programme contents informing large public about persons with disabilities, with the aim of general sensibilisation and integration. The majority of such projects/programmes were prepared in cooperation with persons with disabilities. 10 projects were co-financed at the Tender in the total amount of RSD 1,977,628.00.

56. The same year funds were also allocated to publish four magazines for persons with disabilities in the total value of RSD 1,867,844.00.

57. In **2011** for the Tender for Co-financing of Projects/Programmes in the field of information for persons with disabilities, the amount of RSD 5,000,000.00 was allocated for 13 associations, one public (radio) and one private (TV) company.

58. Within the framework of the Tenders for Co-Financing of Projects/Programmes, which contributed by their quality to development and presentation of art and culture in 2010, the Ministry of Culture, Media and Information Society co-financed nine projects contributing to integration of persons with disabilities in the cultural and social life of the community, projects developing creative, art and intellectual potentials of persons with disabilities and contribute to awareness raising, education and sensibilisation of the public for the capabilities and needs of persons with disabilities in the total value of RSD 2,400,000.00. Six projects were financed outside the tender in the total value of RSD 3,370,000.00.

59. At the tender in 2010 the Ministry of Culture, Media and Information Society co-financed five projects in the field of cultural heritage in the amount of RSD 1,200,000.00.

60. In 2010 for regular financing of programmes of publishing and librarian activities for the blind, the Ministry of Culture, Media and Information Society granted to the Association of the Blind of Serbia in the field of cultural heritage the amount of RSD 9,000,000.00.

61. At the Tender for Co-Financing of eight programmes/projects intended for cultural activities of persons with disabilities in 2011, the amount of RSD 2,400,000.00 was allocated.

The supplement by the Ministry of Economy and Regional Development

I Review of Unemployed Persons with Disabilities Registered by the National Employment Agency in Respect of Education Level and Sex

2009

	Total	Women	I SE	II SE	III SE	IV SE	V SE	VI	VII
The Republic of Serbia	20,023	7,156	7,099	2,337	6,538	3,049	481	319	200

2010

	Total	Women	I SE	II SE	III SE	IV SE	V SE	VI	VII
The Republic of Serbia	20,402	6,672	7,224	2,493	6,395	3,229	429	357	275

2011 – inclusive of 30 June 2011

The Republic of Serbia	Total	Women	I SE	II SE	III SE	IV SE	V SE	VI	VII
	20,766	6,880	7,150	2,503	6,478	3,496	415	407	317

62. At the end of the reporting period the total number of persons with disabilities registered with the National Employment Agency who were actively looking for jobs was 14,461.

TABLE REVIEW OF UNEMPLOYED WOMEN WITH DISABILITIES REGISTERED WITH THE NATIONAL EMPLOYMENT AGENCY WITHIN THE PERIOD FROM 1 JANUARY 2010 TO 31 DECEMBER 2010

TARGET GROUP (WOMEN) PER AGE	TOTAL PER EDUCATION LEVEL	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65+
I EDUCATION LEVEL	351	12	37	65	60	50	35	35	37	20	0	0
II EDUCATION LEVEL	85	4	17	16	8	12	9	13	5	1	0	0
III EDUCATION LEVEL	283	11	50	51	58	28	32	27	21	5	0	0
IV EDUCATION LEVEL	400	7	87	55	69	42	8	51	40	11	0	0
V EDUCATION LEVEL	1	0	0	0	1	0	0	0	0	0	0	0
VI-1 EDUCATION LEVEL	19	0	1	3	8	3	1	1	0	2	0	0
VI-2 EDUCATION LEVEL	0	0	0	0	0	0	0	0	0	0	0	0
VII-1 EDUCATION LEVEL	32	0	0	15	6	4	3	1	2	0	1	0
VII-2 EDUCATION LEVEL	1	0	0	0	1	0	0	0	0	0	0	0
VIII EDUCATION LEVEL E	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	1,172	34	192	205	211	139	118	128	105	39	1	0

II Employment Obligation – Quota System

63. The Law on Professional Rehabilitation and Employment of Persons with Disabilities (LPREPD) introduced, as a measure of affirmative action, the obligation to employ persons with disabilities for every employer having 20 employees at least. This measure entered into force on 23 May 2010. An employer having from 20 to 49 employees shall be obliged to employ one person with disability, and per each following 50 employees it shall be obliged to employ one person with disability. An employer not able to meet this employment obligation may participate in financing of salaries of persons with disabilities (at monthly level) employed with the companies

for professional rehabilitation and employment of persons with disabilities or social company and organization, proportionally to the number of persons it had not employed. An employer that is going to settle financial liabilities contained in the agreement on business – technical cooperation, purchase of products or performance of services with company for professional rehabilitation and employment of persons with disabilities, in the value of 20 average salaries in the economy of the Republic of Serbia, according to the latest published data by the body in the Republic of Serbia in charge of statistics, shall be considered to have met the requirement to employ one person with disability, within the period of 12 months.

Year	Employment in Total /from the Registry
2009	2,674 / 2,123
2010	3,681 / 2,036
2011	1,377 / 1,368
2009 -2011	7,732 / 5,527

III Measures, Activities and Programmes Performed by the National Employment Agency in 2010

64. **Career Management and Consulting:** 784 persons in total, 214 women. The structure of employees in respect of age is as follows: from 15-19 years of age - 37 persons, 14 women out of this number, from 20-24 years of age - 101 persons; 32 women out of this number, from 25-29 years of age - 83 persons, 34 women out of this number, from 30-34 years of age - 61 persons, 17 women out of this number, from 35-39 years of age - 87 persons, 22 women out of this number, from 40-44 years of age - 79 persons; 16 women out of this number, from 45-49 years of age - 107 persons, 31 women out of this number, from 50-54 years of age - 114 persons; 30 women out of this number, from 55-59 years of age - 93 persons; 17 women out of this number and from 60-64 years of age - 22 persons, 1 woman out of this number. According to the levels of education, the structure of employees is as follows: I SE - 195 persons, 55 women, II SE - 113 persons, 43 women, III SE - 297 persons; 62 women, IV SE - 131 persons, 39 women, V SE - 12 persons, VI SE - 20 persons, 6 women, VII/1 SE - 16 persons, 6 women.

65. **Additional Education and Training:** 53 persons in total, 17 women. The structure of employees in respect of age is as follows: from 15-19 years of age - 4 persons, 2 women out of this number, from 20-24 years of age - 17 persons; 5 women out of this number, from 25-29 years of age - 19 persons, 5 women out of this number, from 30-34 years of age - 7 persons, 2 women out of this number, from 35-39 years of age - 3 persons, from 40-44 years of age - 8 persons; 2 women out of this

number, from 45-49 years of age - 2 persons, from 50-54 years of age - 2 persons; 1 woman out of this number, from 55-59 years of age - 1 person. According to the level of education the structure of employees is as follows: I SE - 7 persons, 2 women, II SE - 7 persons, 4 women, III SE - 26 persons; 4 women, IV SE - 9 persons, 4 women, VI SE - 1 person, 1 woman, VII/1 SE - 3 persons, 2 women.

66. **Programmes of Subsidized Employment:** 199 persons in total, 57 women. The structure of employees in respect of age is as follows: from 15-19 years of age - 4 persons, 3 women out of this number, from 20-24 years of age - 39 persons; 13 women out of this number, from 25-29 years of age - 30 persons, 11 women out of this number, from 30-34 years of age - 22 persons, 7 women out of this number, from 35-39 years of age - 18 persons, 4 women out of this number, from 40-44 years of age - 13 persons; 2 women out of this number, from 45-49 years of age - 22 persons; 6 women out of this number, from 50-54 years of age - 21 persons; 9 women out of this number, from 55-59 years of age - 26 persons; 2 women out of this number and from 60-64 years of age - 4 persons. According to the level of education the structure of employees is as follows: I SE - 37 persons, 13 women, II SE - 18 persons, 7 women, III SE - 95 persons; 26 women, IV SE - 32 persons, 8 women, V SE - 6 persons, 2 women, VI SE - 5 persons, 1 woman, VII/1 SE - 6 persons.

67. Within the period of 6 months after the introduction of the measure concerned in 2010, there were 1,036 persons with disabilities who got jobs.

Comparative Review: Measures and Activities of Professional Rehabilitation and Programmes for Incitement of Employment from 2009 to 2011

- The number of persons with disabilities included in the programmes and measures of professional rehabilitation (measures of career management and consulting and measures of additional education and training)
- The number of persons included in the programmes of incitement of employment (programmes of subsidized employment) and support measures
- employment of persons with disabilities - total / from the registry

The Republic of Serbia	Total	Measures of Professional Rehabilitation	Programmes of Employment Incitement and Support Measures	Employment in Total/from the Registry
2009	2,657	1,943	714	2,674 / 2,123
2010	3,103	2,485	618	3,681 / 2,036
2011	3,224	2,281	943	1,377 / 1,368
2009 -2011	8,984	6,709	2,275	7,732 / 5,527

Since the adoption of the new Law on Professional Rehabilitation and Employment of Persons with Disabilities in May 2009 there has been a considerable step forward in the total participation of persons with disabilities in the programmes of professional rehabilitation and the programmes of incitement of employment. The result of these programmes and entering into force of quota system is also increased employment of persons with disabilities in 2010 in relation to 2009. The establishment of the Budgetary Fund for Professional Rehabilitation and Incitement of Employment of persons with disabilities made it possible to finance a larger number of measures in 2011. The result of this is that in six months in 2011 a larger number of persons with disabilities were included in the programmes in relation to the annual level in the previous two years. The same trend may also be noticed if we look at the programmes of subsidized employment thanks to which a larger number of persons with disabilities were employed in 2011 in relation to 2010. The positive effect of measures and programmes of active labour market policy in 2011 is also reflected in the trend of increase of the number of employed persons with disabilities from the records of the National Employment Agency.

IV Companies for Professional Rehabilitation and Employment of Persons with Disabilities as A Special Form of Employment

68. Companies for professional rehabilitation and employment of persons with disabilities (at present in Serbia there are 43 active companies for professional rehabilitation and employment of persons with disabilities that employ about 1,700 persons with disabilities in total. With the aim to develop social component of these companies and their positioning as the resource of working/professional training, the Ministry of Economy and Regional Development continued professional support and award of financial resources (at monthly and annual levels), for the purpose of maintenance of production-service activities and more competitive market appearance of commercial entities of this type. In the course of **2010** from the budget of the Republic of Serbia, on the account of participation in salaries of employed persons with disabilities with companies of this type, the funds in the total amount of RSD **462,700,892.61** were transferred, while for the improvement of working conditions and improvement of production programmes **18** programmes were financially supported in the total amount of RSD **88,827,310.06**.

69. In the course of 2011, the Ministry of Economy and Regional Development effected the payment of RSD **364,193,384.00** on the account of participation in salaries of employed persons with disabilities with companies for professional rehabilitation and employment of persons with disabilities. In the subject period this Ministry also issued two public invitations for the award of funds to companies for professional rehabilitation and employment of persons with disabilities from the Budgetary Fund for professional rehabilitation and employment of persons with disabilities, as follows:

70. 1) The public invitation for the award of funds to companies for professional rehabilitation and employment of persons with disabilities to cover operating business costs incurred until 31 December 2010 and/or support to development of competitiveness of companies for purchase of production materials and raw materials for investment in further cooperation. The funds pursuant to this public invitation were provided for in the Budgetary Fund for professional rehabilitation and

incitement of employment of persons with disabilities, in the total amount of RSD **303,869,193.67**, thus approving financing according to **54** applications.

71. 2) The public invitation for the award of funds to companies for professional rehabilitation and employment of persons with disabilities to provide construction engineering standards and/or to provide standards in respect of equipment. The funds pursuant to this public invitation were provided for in the Budgetary Fund for professional rehabilitation and incitement of employment of persons with disabilities in the total amount of RSD **256,572,547.15**.

72. More considerable increase of the amount of funds directed towards these commercial subjects for incitement of employment and professional rehabilitation of persons with disabilities is the result of inflow of funds into the Budgetary Fund (alternative fulfilment of the obligation to employ persons with disabilities).

V Assessment of Work Capacity

73. Based on the review of comprehensive state of individuals and state on the labour market, the expert body shall assess disease and injuries effecting work capacity and employment possibility or maintenance of employment according to the following scale:

0 degree – if there are no difficulties and obstacles for work, and if they are insignificant and do not effect work capacity;

1st degree – if difficulties and obstacles are minor and effect work capacity in relation to profession or jobs the person concerned may carry out preventing employment under general conditions;

2nd degree - if difficulties and obstacles are moderate, namely significant in relation to profession or jobs the person concerned may carry out making employment possible under special conditions – provided job, work post or jobs and work post are adjusted and under financial support of the employer within the programme of reimbursement of expenses for adjustment of work post and refund of salary of the person engaged to render professional support;

3rd degree - if difficulties and obstacles are complete or multiple, namely if a person cannot be employed or maintain employment neither under general nor under special conditions, whose work output is less than one third of work output of an employee at an ordinary work post, regardless of profession or jobs – work engagement as therapy at work centres.

Assessment of Work Capacity– The 2009-2011 Review

- Number of submitted applications;
- Number of social questionnaires;
- Number of findings, opinions and assessment of work capacity;
- Number of adopted decisions on assessment of work capacity

The Republic of Serbia	Submitted Applications	Social Questionnaires	Finding, Opinion and Assessment of Work Capacity	Decision on Assessment of Work Capacity
2010	5,875	4,745	4,241	4,071

2011	3,065	2,489	2,051	1,990
2010-2011	8,940	7,234	6,292	6,061

The application of the new system of assessment of work capacity started in the Republic of Serbia in July 2010. Since the beginning of procedure of assessment, inclusive of 30 June 2011, 6,061 persons gained the status of a person with disability, namely their work capacities were assessed as well as the possibility of inclusion on the labour market. In spite of considerably larger inclusion of persons with disabilities in the measures of professional rehabilitation and programmes for incitement of employment, since 2010 there has been no decrease of the total number of unemployed persons because of the number of persons that gained the status of unemployed persons with disabilities after the assessment but participation of women was decreased in 2011 in comparison with 2009.

74. At the Tender for Inclusion of Associations in the process of strategy implementation through realization of the projects aimed at implementation of strategy priority objectives and activities planned by the Action Plan, which is carried out by the Ministry of Youth and Sports annually, within the period from September 2009 to March 2011, three projects of associations were financed, in the total amount of RSD 1,744,129.90.

75. In the course of **2009** the sector in charge of projects of the Ministry of Youth and Sports carried out eight infrastructural projects in total with the aim to construct, recover and adapt the buildings for sports activities, recreation and leisure activities of persons with disabilities, in the total value of RSD 20,249,996.00.

76. In the course of **2010** the sector in charge of projects of the Ministry of Youth and Sports carried out eight infrastructural projects in total with the aim to construct, recover and adapt the buildings for sports activities, recreation and leisure activities of persons with disabilities, in the total value of RSD 15,349,815.00.

77. Regular Programmes of the Ministry of Youth and Sports

2009

1.	The Serbian Sports Association of Disabled Persons	4,707,000.00
2.	The Para Olympic Committee of Serbia	11,767,500.00
3.	The Serbian Sports Association of Deaf	4,707,000.00
4.	Special Olympiad	2,353,500.00
5.	The Serbian Association for Blindness and Low Vision	200,000.00
6.	The Serbian Association for Blindness	1,500,000.00
	RSD in total:	25,235,000.00

2010

1.	The Serbian Sports Association of Deaf	4,377,510.00
2.	Special Olympiad	2,353,500.00
3.	The Para Olympic Committee of Serbia	11,300,000.00
4.	The Serbian Sports Association of Disabled Persons	4,000,000.00
	RSD in total:	22,031,010.00

78. Sports Camps of the Ministry of Youth and Sports

2009

1.	The Para Olympic Committee of Serbia	2,800,000.00
2.	Special Olympiad	840,000.00
3.	The Serbian Association for Blindness	840,000.00
4.	The Serbian Sports Association of Deaf	840,000.00
	RSD in total:	5,320,000.00

2010

1.	Special Olympiad	812,400.00
2.	The Serbian Sports Association of Deaf	840,000.00
	RSD in total:	1,652,400.00

79. Budgetary Fund

1. The report on financing of activities of sports organizations of persons with disabilities

2009

1.	The Serbian Skiing Association of Persons with Disabilities	1,000,000.00
2.	“Sve je Moguće” – Sports Recreation Association of Persons with Disabilities, Belgrade	500,000.00
3.	The Cycling Association of Persons with Disabilities, Belgrade	200,000.00
4.	The Sports Association of Sports Clubs of War Veterans and Families of Killed Warriors of Serbia, Obrenovac	200,000.00
5.	Movement of Small People of Serbia, Sombor	100,000.00
6.	The Para Olympic Committee of Serbia, Belgrade	500,000.00
	RSD in total:	2,500,000.00

2010

1.	The <i>Sve je Moguće</i> – Sports Recreation Association of Persons with Disabilities, Belgrade	300,000.00
2.	The Serbian Association of Seating Valley of Persons with Disabilities, Belgrade	2,750,000.00
3.	The National Sports Association for Blindness and Low Vision, Belgrade	360,000.00
4.	The Para Olympic Committee of Serbia, Belgrade	2,000,000.00
5.	Special Olympiad, Belgrade	1,000,000.00
	RSD in total:	6,410,000.00

SCHOLARSHIPS in 2010

Beneficiary	Paid
The Serbian Sports Association of Disabled Persons	454,929.00
The Serbian Sports Association of Disabled Persons	5,125,956.00
RSD in total:	5,580,885.00

PRIZES in 2010

Beneficiary	Paid
The Serbian Sports Association of Disabled Persons	2,190,271.00
The Serbian Sports Association of Disabled Persons	2,190,271.00
The Serbian Sports Association of Disabled Persons	6,429,486.00
The Serbian Sports Association of Disabled Persons	5,130,373.00
The Serbian Sports Association of Disabled Persons	5,130.373.00
The Serbian Sports Association of Disabled Persons	6,226,848.00
The Serbian Sports Association of Disabled Persons	4,151,232.00
RSD in total:	31,448,854.00

NATIONAL AWARDS IN 2010

Name	Paid
The Serbian Sports Association of Disabled Persons	674,465.00
The Serbian Sports Association of Disabled Persons	6,157,023.00
The Serbian Sports Association of Disabled Persons	1,970,248.00
The Serbian Sports Association of Disabled Persons	42,852,803.00
The Serbian Sports Association of Disabled Persons	5,378,318.00
The Serbian Sports Association of Disabled Persons	1,287,612.00
RSD in total:	58,320,469.00

80. In addition, the Ministry of Youth and Sports, Sports Sector, financially supports 54 holders with disabilities of the National Sports Awards.

81. The accredited training programmes for employees of social protection system: “Enigmatic World of Senses” (implemented 6 times); Personnel training programme for operation and opening of daily care for persons with disabilities (implemented 4 times); Guide for practical activities with persons with autism; Supported housing – training programmes for support service employees; Comprehensive approach and methods for optimization of potentials of children with disabilities; “School of Living Skills” – training programmes for professionals for assessment and preparation of persons with disabilities for maximum independent living in the least restrictive surroundings (implemented 12 times); Training programmes for employees of the social protection institutions of persons with special needs to improve and maintain oral health of this target group; Training for incitation and development of service of

personal assistants to work with mentally challenged persons; Hyper-habilitation (implemented twice); Application of Montessori method in activities with persons with disabilities (implemented 9 times); Early psycho-social stimulation of children with disabilities; Basic training programme for activities with children and persons with disabilities (implemented 5 times); Training of experts to carry out the programme of work engagement of mentally challenged persons on the open market; Application of IT in activities with persons with intellectual disabilities; Preparation and support to fostering families to accept children with down syndrome (implemented twice); Preparation and support to fostering families to accept moderately mentally challenged children (implemented twice); Socio-educational training programme for fostering parents in “To Live with Us and Not Beside Us” specialized fostering; Establishment of sustainable service and programme of activities of daily cares for children and young with disabilities; Assessment of needs in order to provide efficient support – training for model preparation and instrument of assessment of needs of children with disabilities and their families.

Annex II

Legal Framework in Kosovo and Metohija

82. By the United Nations Security Council Resolution 1244 of 10 June 1999 civil and security presence under the auspices of the United Nations was established in Kosovo and Metohija (item 5). The Resolution prescribed that international civil presence had to establish interim administration in Kosovo and determined that people in Kosovo would be able to enjoy substantial autonomy within FR Yugoslavia. Further, it was responsible to provide interim administration, while establishing and overseeing the development of provisional democratic self-governing institutions (paragraph 10), as well as responsible for transfer of its administrative assignments in accordance with the establishment of the institutions concerned (item 11, under 4)), while in the final stage its responsibility would be to oversee the transfer of authority from provisional institutions of Kosovo to the institutions established under a political settlement (item 11, under 6).

By the UNMIK Directive 1999/11⁷³ of 25 July 1999 “all legislative and executive power concerning Kosovo, including administration of judiciary, was entrusted to UNMIK [...]” while the implementation was entrusted to the Special Representative of the Secretary General (Article 1, paragraph 1).

The UNMIK Directive 2001/9⁷⁴ of 15 May 2001 proclaimed the constitutional framework for provisional self-government in Kosovo (the Constitutional Framework), defining provisional self-government institutions (PSGI) (Article 1, paragraph 2). According to the Constitutional Framework, the competences are shared between UNMIK and provisional self-government institutions with the aim to develop self-government in Kosovo until the settlement of the final status.

The provisional self-government institutions were given a wide scope of competences in legislative, executive and administrative domains of power exercise (Chapter 5)

⁷³ UNMIK Directive no. 1999/1 on powers of the Interim Administration in Kosovo

⁷⁴ Directive no. 2001/9 on the Constitutional Framework for Provisional Self-Government in Kosovo. This Directive entered into force on 15 May 2001. Amended by the Directive no. 2002/9. Implemented by the Administrative Instruction no. 2001/23, the Administrative Instruction no. 2003/15 and the Administrative Instruction no. 2004/6.

while UNMIK would retain exclusive competence in the field of foreign affairs, judiciary, as well as of financial and budgetary controls (Chapter 8). Also, the Special Representative of the Secretary General would retain powers to monitor the acts and activities of provisional self-government institutions in order to see that they would be in accordance with the Resolution 1244 (Chapter 8, paragraph 1, under (b) and Chapter 12). It meant that all legislation in Kosovo and Metohija had to be adopted by the Kosovo Assembly in the first place and then also signed by the Special Representative of the Secretary General.

Since UNMIK has administration in Kosovo, international conventions on human rights must also be implemented in Kosovo and Metohija. The implementation of instruments for the protection of human rights in the Autonomous Province of Kosovo and Metohija, including the Convention on the Rights of Persons with Disabilities should be considered in the light of the Security Council Resolution 1244 (1999), operating part 11(j) of the Security Council Resolution 1244 (1999) stressing that UNMIK shall be obliged to protect and promote human rights in Kosovo and Metohija.

Since the Convention on the Rights of Persons with Disabilities was adopted by the United Nations on 13 December 2006, and opened for signing on 30 March 2007, it is not a part of the Constitutional Framework for interim administration in Kosovo and Metohija. According to the available information, this Convention is not included in the list of instruments valid in the Province.

The State of Affairs at Shtimlje

Kenneth Roth, executive director of Human Rights Watch says in the Preamble of the Report that MDRI performed a huge job and prepared detailed report that would have to remind us of emergency of protection of human rights of persons with disabilities, as an especially vulnerable population.

MDRI states the following: “In spite of considerable inflow of international funds intended for development of democracy and support to civil society in Kosovo, this Report finds that persons with mental difficulties were not included in the agenda of the programme for protection of human rights. Concerning this population, Kosovo is a place of serious violations of human rights, to which no one pays attention (page 4 of the integral document); “At social protection institutions and psychiatric wards in Kosovo, people were illegally and inadequately placed, contrary to national and international laws”.

The findings and allegations of MDRI relating to the physical plant at Shtimlje, including the note and the comments:

1. Inhuman and degrading conditions (deprivation, inactivity of beneficiaries, no privacy, living in filth, communal clothing, no personal hygiene, psychotropic medication – which is administered with a dangerous lack of monitoring by psychiatric professionals. There is no psychiatrist on staff, beneficiaries are locked);

Note: Within the period of 18 months (2000-2001) UNMIK provided the data that at Shtime there were 18 people who died within the above mentioned period, of whom half were under 50 years of age, and 78% of them were under 60 years of age. According to the data provided by UNMIK, in many cases of death of people who died

at the age of thirty and forty, death was considered *natural*. There is no independent method to establish whether death was *natural* or *suspicious*, while investigation or autopsy were undertaken only in case the manager of the physical plant at Shtimlje declared the case concerned *suspicious*.

Comment: The allegations stated in the Report directly report on violations of the Convention on the Rights of Persons with Disabilities, as follows:

Article 10 – Right to life

2. Physical violence and sexual abuse (allegations received by MDRI is consistent so it may be concluded that physical violence and sexual abuse are significant problems at Shtimlje. According to MDRI allegations of abuse should be formally investigated. In this sense, in June 2000 MDRI submitted to UNMIK evidence of physical violence and sexual abuse, and the then director of UNMIK Department for Health and Social Protection, Dr Vuori neglected the MDRI's letter completely. The identity of persons who died within the period concerned should be checked. Both the director of Shtime and Dr Vuori had their own views of this issue (“...if there were any such cases, I would know of them...”), which in no way may be replacement of an independent investigation; For example: a female beneficiary at Shtimlje said to the investigators of MDRI that she had been attacked with a knife, while the director of the plant said it should not be translated; an employee of the Norwegian Red Cross working at Shtimlje said to the investigators of MDRI that in November 1999 he witnessed rape, when a female beneficiary was raped by another beneficiary in the hall in the presence of the staff, and after he had asked the staff why they did not intervene he was told that the women asked for it and that it happened at Shtime every day; the Council for Advancing Human Rights of People with Disabilities visited at Shtimlje in 2002 and on that occasion they talked to six women selected by the director, and five of them said they had been subject to sexual abuse, resulting in an abortion and a broken arm.

Note: In 2001 MDRI informed UNMIK about a case of sexual abuse. UNMIK never expressed any willingness to protect the abused woman. MDRI requested assistance from UNMIK, WHO and OMIK (OSCE in Kosovo and Metohija) to establish some kind of protection for women wishing to give statements on abuse within the system. It has never happened and all initiatives by MDRI were ignored)

Comment: The allegations stated in the Report directly report on violations of the Convention on the Rights of Persons with Disabilities, as follows:

- Article 6 - Women with disabilities
- Article 10 – Right to life
- Article 12 – Equal recognition before law
- Article 13 – Access to justice
- Article 14 – Liberty and security of the person
- Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment
- Article 16 – Freedom from exploitation, violence and abuse.

3. Vulnerability of children from Shtimlje (as the result of successful programme implemented by UNICEF and Doctors without Borders, children were moved from Shtimlje; children demonstrate signs indicating sexual abuse and continue suffering from the consequences of abuse mentally. Children were placed at two locations, one immediately after the Shtime building, and the other one planned for Serbian children was in Gračanica).

Note: 11 children of Serbian and other non-Albanian nationalities have been placed in Gračanica, who had been placed at Shtime before. The house for their placement in Gračanica had been constructed from a donation by the Kingdom of Netherlands.

Comment: The allegations stated in the Report directly report on violations of the Convention on the Rights of Persons with Disabilities, Article 7 – Children with disabilities.

4. Arbitrary detention at the institutions and legal representation (the majority of people placed at Shtimlje is there against the law applicable in Kosovo and Metohija and against international standards and documents; violation of Article 9 of the International Covenant on Civil and Political Rights, Article 23)

Comment: The allegations stated in the Report directly report on violations of the Convention on the Rights of Persons with Disabilities, as follows:

- Article 10 – Right to life
- Article 12 – Equal recognition before law
- Article 13 – Access to justice
- Article 14 – Liberty and security of the person

5. Reinforcing segregated services – the services should be based on the requirements of beneficiaries and implemented in the community (Community based services); experience demonstrated that large institutions are not suitable for persons with intellectual disabilities.

6. Right to citizen participation

Note: Persons with disabilities and their representatives should decide on their rights, which is not the case in Kosovo and Metohija, because there is no association for representation.

Comment: According to our knowledge, and having a review of international documents on the implementation of the Conventions of the Council of Europe and the United Nations in Kosovo and Metohija, the recommendations of MDRI stated in this report have never been implemented.

After the comprehensive report MDRI requested in the recommendations and conclusions the United Nations Secretary General to order to UNMIK:

- to immediately protect persons placed at the institutions against further violence, sexual abuse, to provide conditions for safe living and to separate violent perpetrators from other beneficiaries;
- to establish the system of overseeing in the field of human rights in order to be able to protect such rights;
- to define a comprehensive plan for creation of community based services for people with mental disabilities;
- to fix the date for gradual closing of Shtimlje (in stages);
- to ensure participation of persons with mental disabilities in the process of creation of measures concerning them;
- to report to the United Nations Human Rights Committee about the steps being undertaken to stop violence against persons with mental disabilities in Kosovo in compliance with the Committee Resolution from April.⁷⁵

⁷⁵ According to the Resolution, the UN Secretary General is requested to report on the activities of the UN institute in respect of protection of human rights of persons with disabilities.

