

# POLICY IMPACT ANALYSIS

## PROVIDING ADDITIONAL SUPPORT TO STUDENTS FROM VULNERABLE GROUPS IN PRE-UNIVERSITY EDUCATION

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ANNEX 1:  
INSTITUTIONAL AND LEGAL FRAMEWORK  
FOR PRO-POOR POLICIES



GOVERNMENT  
OF THE REPUBLIC  
OF SERBIA



SOCIAL INCLUSION  
AND POVERTY  
REDUCTION UNIT



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**Publisher:**

Social Inclusion and Poverty Reduction Unit  
UNICEF

**Prepress:**

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SUPPORT: The development of this publication was financially supported by the Swiss Agency for Development and Cooperation as part of the “Support to Improve Social Inclusion in Serbia” project.



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**Swiss Agency for Development  
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# 1. INSTITUTIONAL FRAMEWORK FOR PRO-POOR POLICIES

From the post-2000s Serbia had four Governments, and the fifth started its mandate July 2012. In all of these Governments the main entities for addressing education of children and youth in poverty were a ministry responsible for education (in some periods also education and science, now (July 2013) Ministry of Education, Science and Technological Development, MoESTD) and a ministry responsible for social policy (the Ministry of Labor, Employment and Social Policy). In the period 2001-2011 a ministry of human and minority rights also existed, among other tasks also being in charge of coordinating activities related to the Roma (from 2004 through a special unit, the Secretariat for the Roma Strategy). This ministry has later been merged to a ministry dealing with state administration and local self-government, and from 2012 it functions as an independent governmental agency, the Office for Human and Minority Rights. Having in mind the role of LSGs in social welfare and education (see more details below), the ministry responsible for LSGs could be seen as important and instrumental. Currently the Ministry of Regional Development and local self-government has this responsibility. In addition to the ministries listed, poverty related issues are also addressed by the Social Inclusion and Poverty Reduction Unit (SIPRU) located within the Office of the Minister without portfolio for European Integration, active from 2009 and established as a follow up to the Poverty Reduction Strategy implementation process in Serbia (2003-2009). The SIPRU is mandated to strengthen Government capacities to develop and implement social inclusion policies based on good practices in Europe. It is working across all ministries and government agencies aiming to ensure that the policies that are created and implemented by government are effective in tackling social exclusion. SIPRU presents periodic reports on social inclusion indicators in Serbia, facilitates development of new pro-poor and social inclusion policy recommendations, including also education as a priority topic. From 2010 a Governmental Working Group for Social Inclusion has been established.

Additional important bodies are the following:

**At parliamentary level** relevant committees are the Committee for education, science, technological development and information society; Committee for social affairs, social inclusion and poverty reduction; Committee for health and family; Committee for human and minority rights and Child rights committee. All these committees are primarily responsible for reviewing the legislative acts prior to their parliamentary adoption, but they also organize quarterly reporting of ministries, regular public hearings and other ad-hoc topical hearings. In the period 2005-2012 the poverty reduction committee and from 2008 the child rights working group (now a committee) have been particularly instrumental in supporting pro-poor measures and legal acts contributing to inclusive education.

At government level a cross-sectorial **Council for the Improvement of the Status of Roma** has been established in 2009, and has become an important body for enhancing the implementation of the Strategy for Roma Integration as well as the Decade of Roma Integration action plans. The Council organizes periodic meetings and yearly reporting to hold ministries accountable for implementing the action plans. The Roma

minority, as 18 other minorities, has a National Council with an education and a social protection committee, among others.

**The Council for Child Rights** was a counseling body of the Government of the Republic of Serbia established in 2002. The Council was composed of representatives of key ministries in the wider social sector (education, social welfare, health, justice) and relevant academic and professional institutions. The mandate covered proposing a coherent and holistic policy in accordance to the National Plan of Action for Children and key international documents in improving child's rights, initiating measures for harmonization of the national policies with the legislation of European Union and international standards in the areas relating to children and young people (health, education, culture, social welfare), promoting awareness on child's rights in the country, with a special focus on rights of child to protection from all forms of exploitation, abuse and neglect and the right of children to inclusive education, analyzing measures and policies concerning children adopted by the Government and applied and initiating new measures and policies in the area of child rights.

**The Commissioner for Protection of Equality** is an independent, autonomous and specialized state authority established on the basis of the Law on Prohibition of Discrimination from 2009. The normative framework for the work of the Commissioner for Protection of Equality consists of the Constitution of the Republic of Serbia, the relevant international documents, and the general and the special antidiscrimination laws of the Republic of Serbia. The main mandate is to prevent all forms, types and cases of discrimination, to protect the equality of natural persons and legal entities in all spheres of social relations, to oversee the enforcement of antidiscrimination regulations, and to improve realization and protection of equality.

**The Ombudsman (Protector of Citizens)** in Serbia has a power to oversight the respect of the citizens' rights, establish violations resulting from the acts, actions or failure to act by administrative authorities. It has a power to control the legality and regularity of the work of administrative bodies, to launch initiatives for amending laws and other regulations, to initiate proceedings before the Constitutional Court and to publicly recommend determining of responsibility of heads in the administration.

**The Statistical Office of the Republic of Serbia (RSO)** is a state professional organization with the mandate to manage statistical surveys, collect, process statistical analysis and publish statistical data in all state sectors. In doing so, RSO cooperates with international organizations to provide standardization in data processing and data comparability. They are responsible for official statistics, population census, statistical yearbook, but also special statistics and surveys, such as the Household Budget Survey, the Living Standard Measurement Study (one-off done in 2007 funded by the WB), the Labor Force Survey, as well as statistics related to education and social area. Statistical information in the area of education and social welfare depend on the quality of information provided by the respective sectors. In the education sector the major barrier is the lack of cross-referencing school level data, hence data on education attainments des-aggregated by SES quintile or vulnerability are not available. The RSO has formed the Council for Statistics with representatives from all relevant sectors in Serbia, which should improve the official statistics in different sectors but also enable sectors to influence the program and the plan of statistical reports.

Since 2004, RSO manages **the DevInfo database**, which contains the official statistics for monitoring the global and national Millennium Development Goals and indicators related to Social Inclusion and Poverty Reduction. Data are available at the republic, regional and LSG level. The databases contain also basic data of vital statistics, selected census data (1948-2002) and education statistics, and municipal profiles are created and regularly updated. Since May 2011, RSO has become part of the European Statistical Data Support (ESDS), which is a network of national statistical offices initiated by the Eurostat, with an aim to enable easier access in using European statistical data. RSO will be required to provide educational statistics in line with international requirements, and report in line with Eurostat, the Council of Europe.

The **Ministry of Education, Science and Technological Development** (MESTD)<sup>1</sup> is the major body for developing regulations, financing, supervision, policy development and development and implementation of programs and projects in the field of education, covering the entire education cycle from pre-primary to tertiary education, and adult education. The MESTD is organized in 8 organizational units, i.e. sectors. From these several can be of importance for development and implementation of pro-poor policies (sector for pre-school, primary and adult education; sector for regional school authorities, supervision and secondary education; sector for higher education, investments, pupils' and students' standard; sector for education development and international cooperation in science and education; and sector for European integration and developmental and research programs and projects in education and science), although none hold explicit formal responsibility for vulnerable groups or children from poor families. The Ministry also has 18 regionally dispersed units (Regional School Authorities - RSA), with the main responsibility of supervision and external evaluation, but also as advisors to schools on all school related issues as well as coordinators of development activities and projects. Advisors in these units have a thorough understanding of how each of the schools in their region function and they are the ones usually responsible for data collection on the schools. In recent years advisors from the RSAs have supported and supervised education inclusion of Roma children and children with disabilities and learning difficulties, were engaged in coordinating violence prevention activities, and national teacher trainings; each RSA has at least one assigned staff for coordination of the activities listed. The Ministry is also responsible for data collection on the education system. For this purpose a database platform is under development already for several year, but it is still not functional. Data are collected in suboptimal ways, without details, validity checks and cross-referencing possibilities, hence the current database is not a useful source to monitor the education trajectory of poor and vulnerable children, or for policy development. Due to the data gap, several institutions and units collect data needed for their purposes themselves, which again does not contribute to the analytical needs of evidence based policy making.

There are also Councils and Institutes which serve as background institutions for line ministries. In the education sector the **National Education Council** is in charge of pre-school, primary and general secondary education, particularly in adopting curricula and a variety of standards. The NEC is responsible for providing an annual report about the state of the art in education in Serbia, it has adopted a set of indicators including data des-aggregation criteria for the education system <sup>2</sup> (see details on <http://www.nps.gov.rs/dokumenta/indikatori>) and from 2013 in charge also to monitor dropout in pre-university education and prescribe dropout prevention measures. The **Council for Vocational and Adult Education** covers similar tasks for vocational schools and for the area of adult education, including also the development of the National Qualification Framework. The **National Council for Higher Education** is governing the development of the higher education area, including also initial teacher education, and the **Accreditation Committee** is carrying out accreditation of higher education institutions and programs based on standards established by the National Council for Higher Education, but they can through their regular tasks address issues and promote policies beneficial for the education of poor students.

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<sup>1</sup> Law on Ministries ( "Official GazetteRS " No 72/2012 and 76/2013)

<sup>2</sup> The National Education Council has developed with the support of SIPRU and adopted education indicators to be used in reporting on education quality, equity and efficiency, and for data collection purposes in which most of the indicators both on access, progression and completion, and on quality of learning outcomes are to be presented disaggregated by SES quintiles and for vulnerable groups (Roma, refugees, deportees, children with special needs, children without parental care, migrants). However, the types of requested datasets cannot be obtained without the establishment of a new education information system.

The **Institute for Improvement of Education** is a large background institution established in 2004, having responsibilities in curriculum development, coordinating the teacher training system and developing vocational education. As much as pro poor policies are affecting these areas, the Institute could be instrumental for their promotion, but until now, this has been visible only in the teacher training area.

The **Institute for Education Quality and Evaluation** is also a background institution, with primary tasks in developing standards, developing examination instruments and procedures, coordinating the development and implementation of external evaluation, and conducting research based on request from MoESTD. Its work on developing the external evaluation standards as well as on preparing the school leaving examination for basic education has shown capacity to take into account pro poor policies in these areas.

At the regional level, the **Province Secretariat for Education of the Autonomous Province of Vojvodina** assumes several specific responsibilities related to Vojvodina's education system in accordance with the Law. These include providing opinion in the process of development of curricula and education programs, adopting curricula and approving textbooks in the languages of Vojvodina's minorities, and adopting educational programs of interest for national minorities. The Province Secretariat also provides grants for school projects and initiatives by schools and NGOs and other initiatives for improvement of the situation of students. In 2012/2013, the Province Secretariat launched several calls for proposals/applicants for school projects for primary and secondary education, scholarships for secondary school students from Roma families, transportation costs subsidies for secondary schools and university students and in the area of students' standard for introduction of HACCP and ISO systems in dormitories and schools with dormitories in Vojvodina.

The **Pedagogical Institute of Vojvodina** (PIV) has similar responsibilities for the territory of Vojvodina as the Institute for Improvement of Education at national level. The PIV is particularly active in minority policy, and in education issues in minority languages.

**The Ministry of Labor, Employment and Social Policy** (MoLESP) is the highest regulatory authority for social welfare and poverty related policy in accordance with the Law and accompanying by-laws. It is policy making body and the key financier of centrally managed social services and benefits/financial support<sup>3</sup>. The Ministry is organized in 10 organizational units i.e. sectors and departments, from which the Sector for Family Care and Social Protection has a direct responsibility for poverty related issues and policy. Other sectors that are important in development and implementation of pro-poor policies are the Employment Sector, Sector for War veterans and Department for international cooperation, EU integration and projects.

The MoLESP delivers social care in the form of social services and benefits through the country-wide network of **Centers for Social Work** (CSWs) and municipal offices for social affairs.

**Centres for Social Work (CSW)** – are professional bodies that decide on and follow up on the provision of social welfare support to citizens, provided by local and national levels. CSW is by its nature a dual body - it is a national body performing public functions based on the Family Law and Law on Social Welfare and thus CSW professionals are paid from the national level but it is founded by the LSG which appoints the director and finances the staff of CSW related to local activities and running costs. Along with its public functions, CSW administers financial benefits in line with the Law on Social Welfare funded by the Republic budget (Financial Social Assistance to poor families) and one-off social assistance provided by the local level (which include meals for poor and Roma, transportation costs, clothing, textbooks, etc.). In addition, CSW participates in planning and development of social welfare in the local community. There are 140 CSWs,

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<sup>3</sup> Republic budget funds 90% of the total expenditures for social welfare

almost in all LSGs in Serbia with a total of 3,235 employees as of 31 December 2011.<sup>4</sup> Depending of the size of the CSW, each may have the following organisational units/departments: 1) department for children and youth, 2) department for adults and elderly, 3) legal department, 4) department for financial affairs and administrative and support activities, 5) department for planning and development, 6) department for community-based social services, 7) reception/triage department, 8) optional – residential home, others. The organizational structure of the CSW reflects the significance of the issues of children and youth within the social sector, the greatest part of organisational units across all CSWs are departments for children and youth, that also engage the greatest number of professionals among all employees.<sup>5</sup>

Reforms of the social welfare have led to the introduction of new work method and organization in CSWs, regulated by the new Regulation on the organization, norms and standards of the Centre for Social Work<sup>6</sup>. Inter-sectorial cooperation is an important prerequisite for successful case management, since the holistic support to clients requires identification and often combination of different supports and services, including the ones available in other sectors (education, health, employment, police, etc.), regardless of whether the services are nationally or locally funded or provided by state or non-state providers. Still, inter-sectorial cooperation seems to be a challenge. According to the findings of a survey among CSW professionals<sup>7</sup>, the inter-sectorial cooperation is best rated with the police, Red Cross, other social institutions and education institutions. On the other hand, 40.3% of professionals deems that a satisfactory level of cooperation has not yet been established even in relation to these organizations.

In the social area, the **Institutes for Social Protection (ISPs)**, are research and development institution with an overall aim of improving quality of social services. There are two Institutes, the **Republic Institute for Social Protection** and the **Province Institute for Social Protection**, both founded in 2006. The Republic ISP's responsibilities are to continuously monitor the quality of work in social welfare, report on the delivery of social care, provide recommendations to decision-makers in formulating policies, provide supervisory support to social service providers, social welfare professionals and other actors (e.g. local self-governments) in establishing an effective model of social welfare focused on reducing the level of social exclusion of vulnerable groups. Moreover, Republic ISP coordinates the work on the development of national minimum standards for social services, maintains databases of licensed social service providers and manages the system of accredited training programs intended to improve the competencies of the professionals in social welfare. The Province ISP contributes to the improvement of the system of social welfare focusing on the territory of Vojvodina, primarily in the areas of research practices, supervisory support to social services providers, professional training provision and promotion and support.

The **Province Secretariat for Health, Social Policy and Demography of Vojvodina** performs tasks of the province administration in the area of social welfare entrusted by the Law, defines wider scope of entitlements and more favorable conditions for their acquirements, adopts the Program for the improvement of social welfare, inspects and supports the social institutions at the territory of the province and proposes the social safety measures for the vulnerable groups..

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<sup>4</sup> Report on the Work of the Centres for Social Work for 2011, Republic Institute for Social Protection, Belgrade 2012

<sup>5</sup> Report on the Work of the Centres for Social Work for 2011, Republic Institute for Social Protection, Belgrade 2012

<sup>6</sup> Regulations on the organization, norms and standards of the Centre for Social Work, Official Gazette of RS, 59/2008.

<sup>7</sup> UNICEF (2012) *Assessment on the Implementation of the Rulebook on Organization, Normative and Standards of Work of the Centre for Social Work: From the perspective of Centre for social work professionals*, Association of Centers of Social Work



At subnational level **local self-governments** (LSGs) have substantial responsibilities in education and social policy on their territory. According to the Serbian Constitution, art 190, LSGs are responsible for meeting the needs of their citizens in the area of education, culture, health, social care, child care, and sports. In the Law on Local Self-governments (2007), the jurisdictions of LSGs are specified in the area of education and social welfare, art. 20, and these jurisdictions are elaborated more clearly in the respective education and social legislations. In the education area, the greatest responsibility is at pre-school level, where the LSG finances the provision, participates in the management and decides on the network of institutions. Somewhat less responsibility is given to LSGs in the area of primary and secondary education where their main responsibilities entail in financing maintenance costs of the school (electricity, heating, etc.), transportation costs for teachers and students as well as costs for teacher training, deciding on the network of schools, assigning members to the school boards and endorsement of the school management board members. LSGs are also responsible for organizing the legal inspection of education institutions.

On the other hand, LSGs are the most important players regarding social policy at the local level. LSG has a clear **mandate over managing social welfare support to its citizens** and it is accountable for social welfare to its citizens exercised through funding and provision of both local social benefits and community-based social services. The LSG issues the **local Act on the social entitlements** (earlier known as local act on extended social entitlements) provided to the citizens, which specifies social services and benefits to be funded from local budgets (these also include support to poor and Roma, transportation, textbooks, scholarships, community-based social services, etc.). While main financial social assistance and family support are benefits funded from the central budget, LSG is responsible for providing one-off financial and in-kind social assistance, out of own resources, which supplement the financial support provided by the central budget. LSG has a mandate over financing and managing community-based social services in line with the local needs defined in the Programme for improvement of Social Welfare (LSW, Art.20), and issues the local regulation on social entitlements provided to the citizens<sup>8</sup>. LSGs administer the centrally funded child allowance benefits through local offices-departments for child welfare. In addition, CSW is founded by the LSG and the LSG finances the local activities of CSW. Therefore, administration of the key state financial support to poor is left at the LSG – the child allowance program is administered by the LSG office/department of childcare and financial social assistance by the CSW. However, functional cooperation between these two institutions administering key poverty-related programmes in Serbia and exchange of data on the same client groups in the most cases is weak or non-existent.

Provision of local education and social services (health also) is usually organized within a **single local department - local offices for social affairs of the LSG**. This organizational structure could create easy possibilities of inter-sectorial cooperation between the two administrations relevant for enactment of pro-poor policies and actions at the local level. However, the practice shows that these offices are often understaffed, sector wide isolated and that cross-sectorial interventions toward common topics or target groups are weak.

LSGs furthermore established an important body, the **Inter-sectorial Committee for assessing the needs of children for additional educational, social and health support (ISC)**, comprised from experts from each sector dealing with the child, a coordinator and ad-hoc additional members-resource persons, i.e. that know the child and its social/family context well. The role of these committees is to identify support mechanisms needed for the education of children from vulnerable groups. The Inter-sectorial committee (ISC) as a mechanism for identifying needs of poor and vulnerable children is still not widely recognized at local level, thus ISC recommendations for services and measures are rarely integrated into local acts on

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<sup>8</sup> Law on Social Welfare ("Official Gazette RS" No. 24/2011)

social entitlements, and financed as one would expect. The reason lies in the fact that the LSG's responsibility over financing of the ISC's recommendations is not explicitly articulated in the existing legal framework.

The ISC work is supervised by a governmental **Joint Body** consisting of representatives of the three respective line ministries (education, health, social policy), ministry/secretariat responsible for human and minority rights, SIPRU, UNICEF, Standing Conference of Towns and Municipalities, and Delivery of Improved Local Services (DILS), a social inclusion education expert, a social inclusion legal expert, a parent and an NGO representative. The Joint Body was established also with the aim of fostering inter-ministerial cooperation around issues of inclusive education and further support to its development, however, the general weakness of managing inter-sectorial cooperation seems to be hampering the work of this body as well.

## 1.1 SUMMARY

The above description of the institutional framework identifies aside of the two respective ministries, a broad array of national level institutions, committees, councils, as well as local institutions and other bodies. This reflects a serious care for social inclusion, provision of support and care. However, the effectiveness in addressing education of children from vulnerable groups and low SES families will depend on a coherent articulation of complementary institutional mandates, clear communication and decision-making channels inside and between the education and social welfare bodies, as well as the responsible bodies, viable data gathering, sharing and reporting procedures and a high processing capacity and integrity in each of them.

In this respect several concerns can be raised:

- No privileged cooperation channels or horizontal links between the social welfare and the education systems, or between any other national level institutions of the two systems have been detected. There are several working groups, councils and committees in which both of the two line ministries are represented, including the Joint body for overseeing the local inter-sectorial committees, but the decision making power of these committees and councils is low, and consequently, serious commitment cannot be ensured through them.
- The two systems use separate data collection systems which are not functionally connected, and also there is no mandatory cross-reporting or data sharing ensured at national or local levels. Data collection is especially weak in the education sector, while somewhat better developed in the social welfare sector.
- It seems that the potential of joint departments dealing with social and education issues at LSG level is not utilized sufficiently and universally. Although belonging to the same department, responsibilities for dealing with issues from the two sectors are falling under the portfolio of different employees, and their joint action is not mandatory but optional. The ministry responsible for LSGs has not yet addressed this gap, nor has it been actively involved in any of the bodies. Instead, the Standing Conference of Towns and Cities is from times to times, mostly due to a variety of projects, engaged in developing the functions and enhancing cooperation between and inside of LSGs.
- Moreover, social welfare system at local level is fragmented within institutional boundaries and administrative jurisdictions with rare consultations, exchange or functional cooperation among them, i.e. complementary social departments dealing with same target groups, municipal office for child

welfare administering child allowance and CSW administering financial social assistance for poor and other services is almost non-existent.

- The ISC mechanism is not recognized in the planning process of social services and measures and not integrated in the local regulation on extended entitlements.
- Particularly detrimental seems the fact that in the education sector none of the institutes or ministry units has a clear mandate to develop, implement, coordinate or monitor pro-poor measures. Mandating in June 2013 the NEC for monitoring dropout and developing dropout prevention measures and strengthening the request that school policies (programs and development plans) address dropout prevention and support to vulnerable groups does not seem to remedy the institutional missing links, since dropout prevention is only a part of the pro poor policies, and since the NEC and the schools do not have the operational structures and finances for the set of actions development, implementation, coordination and monitoring requires, nor does the NEC have direct communication channels to the schools or to the social welfare sector.

## 2. LEGAL FRAMEWORK FOR PRO-POOR POLICIES

The Serbian legal framework regulating measures supporting the education of children and youth from poverty background is divided in two subsets – legal and sublegal acts (bylaws and orders) regulating education on one hand and those regulating social welfare on the other hand. Since the responsible ministries for these legal frameworks are traditionally and currently two different ministries, and since the legal acts have been brought and are enacted with different temporal starting points, one of the first challenges of this analysis will be the analysis of potential synergies and discrepancies between the two legal subsets.

The second challenge will be to depict in which ways and to which extent are national policies/legislation enacted at lower levels of government.

### 2.1 EDUCATION LEGISLATION

Starting from the early 2000's, in order to ensure higher coherence in the system, pre-university education is regulated by a framework law, the **Law on the Foundations of the Education System** (LFES, 2003, 2004, 2009, 2011, 2013)<sup>9</sup>, which is at the same time the basis for a set of special laws pertinent to specific aspects of each education level:

- Law on Pre-school Education and Care (LPEC, 2010)<sup>10</sup>,
- Law on Basic Education (G1-G8) (LBE, 1992, 2013)<sup>11</sup>,
- Law on Secondary Education (LSE, 1992, 2003, 2013<sup>12</sup>), and
- laws regulating specific aspects of the system, i.e. Law on Pupils' and Students' Standard (LPSS, 2010, 2013<sup>13</sup>), Law on Textbooks and Teaching Materials (LTTM, 2009)<sup>14</sup> and Law on Adult Education (2013)<sup>15</sup>.

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<sup>9</sup> Law on the Foundations of the Education System ("Official Gazette RS" No. 72/2009, 52/2011 and 55/2013)

<sup>10</sup> Law on Pre-school Education ("Official Gazette RS" No. 18/2010)

<sup>11</sup> Law on Basic Education ("Official Gazette RS" No. 50/92, 53/93, 67/93, 48/94, 66/94 22/2002, 62/2003 ,64/2003 ,101/2000, 72/2009 and 55/2013 )

<sup>12</sup> Law on Secondary Education ("Official Gazette RS" No. 50/92, 53/93, 67/93, 48/94, 24/96, 23/2002, 25/2002, 62/2003 ,64/2003, 101/2005, 72/2009 and 55/2013

<sup>13</sup> Law on Pupils' and Students' Standard ("Official Gazette RS" No. 18/2010 and 55/2013)

<sup>14</sup> Law on Textbooks and Teaching Materials ("Official Gazette RS" No. 72/2009)

The new Law on Basic Education and Law on Secondary Education have been adopted in June 2013, hence their implementation cannot be yet assessed.

The LFES is a modern forward looking law, and it has a strong equity and quality of education orientation. The LFES regulates

- the general principles, aims and standards in education,
- the roles and responsibilities of background institutions,
- the procedures of establishing schools, their functioning, internal regulations management structures and data collection procedures,
- sets basic curriculum, assessment, and examination regulations,
- regulates enrolment, attendance and progression,
- sets the rights and responsibilities of students and disciplinary measures,
- regulates roles, responsibilities, qualification and work/load of school staff, and the procedures of their hiring, licensing, promotion, disciplinary measures and firing,
- regulates procedures of supervision and inspection, and
- regulates the financing responsibilities and financial flows.

The LFES 2009 has introduced significant novelties in terms of enhancing the quality and equity of education, most prominent of these being the regulation of inclusive education through a non/discriminatory enrolment policy, curriculum individualization and introduction of individual education plans for children who need it, a new support system for vulnerable groups, and a new financial policy where money would follow the child. All these elements were kept through the subsequent amendments and changes in 2011 and 2013. In its general statements the LFES supports equity, tolerance, human rights and social responsibility, and is embodying the value of an equitable education system. The first principle of education listed is that it shall *ensure for all children "equal rights and access to education without discrimination or separation based on gender, social, cultural, ethnic, confessional or any other affiliation, place of residence, economic or health status, learning and developmental difficulties, disability, or any other reason* (art 3. st 1, point 1).

Another principle speaks about prevailing *cooperativeness, solidarity and tolerance in democratic and socially responsible education institutions* (art 3, st 1, point 3), and two others about the *right to education, regardless of financial means for children with special needs and for talented children* (art 3, st 3, points 3 and 4) and about *reducing dropout rates especially among poor children and children from vulnerable groups* (point 4a, LFES 2013).

The aims of education listed in the LFES are highlighting a comprehensive list of cognitive, social and affective aims, and include reference to the fact that it is expected that *all children* acquire them, and to gaining *capacities to develop competencies for communication and dialogue, solidarity, cooperation, teamwork and friendship* (art 4 st 1 point 12), *development of civic competencies, competencies for living in a democratic and humane society built on respect of human and civil rights and basic values of justice, truth, freedom, decency and personal responsibility* (art 4, st 1, point 13).

An important focus of the LFES is the *prohibition of discrimination in education institutions on the basis of racial, national, linguistic or confessional identity, gender, physical or psychological characteristics, special needs, disability, health status, age, social or cultural background, economic status or political affiliation. Discriminatory activities of school staff or failure to act upon them are treated as serious violation resulting*

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<sup>15</sup> Law on Adult Education ("Official Gazette RS" No 55/2013)

*in possible loss of employment, and for students as violation which can lead to serious disciplinary measures or expulsion from school (art.44.).* Consequences of violating this prohibition can result in placement into another school at basic education level, being expelled from school at secondary education level (LFES art 115, st 1, point 3) losing the job and the teacher license (art 128, st 1, point 2).

The **Law on Pre-school Education** (LPE) regulates in more precise and to the pre-school system adjusted ways the relevant areas from the LFES, i.e. the principles and aims of pre-school education, the procedures of establishing pre-school institutions, enrolment procedures, types and characteristics of curricula, functioning, internal regulations and data collection procedures of pre-school institutions, roles, responsibilities, qualification and work/load of pre-school staff, and the financing responsibilities and financial flows pertinent to pre-school education. The LPE has expanded the important novelties introduced by LFES regarding the education of vulnerable groups in the area of pre-school education most notably by prioritizing the enrolment of children from vulnerable groups (art 13), and their inclusion in regular groups.

The new **Law on Basic Education** and the new **Law on Secondary Education** articulate the application of LFES provisions in greater detail for the respective education levels, and they foresee the implementation of several pro-poor policies, including school meals (LBE, art 68), extracurricular and afterschool activities (LBE, art 40 and 42), drop-out prevention as part of school development plan (LBE, art 25, LSE, art 9), career guidance (LSE), etc. Reference will be made to the particular innovations in the subsequent text.

The **Law on Pupils' and Students' Standard** is an important regulatory act from the point of view of support provided to poor students. It regulates access to scholarships, loans and dormitories for secondary and tertiary education students.

The **Law on Textbooks and Teaching Materials** regulates in a new way the accreditation of textbook publishing companies, the preparation, approval, publishing and selection of textbooks, whereby instead of legitimizing only the state publishing house, the new procedures are applicable to all publishers, including private publishers. The LTTM also explicitly forbids publishing of discriminatory materials in any textbooks (art 4.) and requires textbook assessment based on quality standards. However, it does not regulate the area of financing or provision of free of charge textbooks.

In order to provide a useful account on pro-poor measures in education a more particular analysis will be conducted to identify provisions and assess their coherence and comprehensiveness in the subsequent chapters.

## 2.2 LEGISLATION IN THE AREA OF SOCIAL WELFARE

The relevant Laws in the area of social policy are the following:

The **Family Law**<sup>16</sup>, passed in 2005, regulates family relations, relations between child and parents, adoption, guardianship, fostering and introduces special measures against family violence. With this Law for the first time in Serbia, child rights are legally regulated and special legal proceedings are foreseen to ensure the exercise of those rights. Article 63 of the Family Law provides that each child shall have the right to education in accordance with its abilities, wishes and aptitudes and that a child aged 15, capable of reasoning, may decide which secondary school he/she will attend. In the section referring to the rights of parents (Article 68) it is stated that parents shall have the right and duty to take care of a child; child care shall imply protection, upbringing,

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<sup>16</sup> Family Law ("Official Gazette RS" No. 18/2005, 72/2011)

education, representation, financial support and management of child's assets. Parents shall be entitled to receive complete information about their child from educational and health care institutions. Article 71 states that parents shall be obliged to provide elementary education to their child; as for the provision of further education, they shall be obliged to act in accordance with their full capacities. Moreover, parents shall have the right to provide education to their child which is in accordance with their religious and ethical beliefs.

The ***Law on the Prevention of Discrimination against People with Disabilities***<sup>17</sup>, adopted in 2006, regulates the prevention of discrimination based on disability as well as measures for social inclusion of persons with disabilities.

***The Law on the Prohibition of Discrimination***<sup>18</sup>, adopted in 2009, bans discrimination on the grounds of race, religion, sexual orientation and gender in different areas of life such as employment and education. The law also provides for a special state representative to monitor possible discrimination, and propose sanctions.

Along with the Family Law, the two key laws, which define the design, architecture and measures and instruments of the social welfare system and particularly poverty related policies are the ***Law on Social Welfare***<sup>19</sup> (LSW, 2011) and the ***Law on Financial Support to the Family with Children*** (LFSEC, 2002, 2005, 2009)<sup>20</sup>.

***The Law on Social Welfare*** (LSW, 2011) is a new and modern law regulating social infrastructure and stakeholders in provision of quality social services and benefits to the citizens in social need. The Law provides significant improvement into design and functioning of the social welfare system, and though since recently many of the by-laws for its full implementation are ready and adopted, more time will be needed to be fully implemented and employed by all stakeholders. It introduces a number of innovations in the social system:

- a) The financial benefits scheme (financial social assistance and caretakers' allowance) (Art 81-107) has been improved enabling higher coverage and higher amounts of benefits among particularly vulnerable categories of population. Active inclusion of the financial social assistance beneficiaries is an innovation in the financial scheme, which enables inclusion of the clients in programs and support leading to their increased pro-activity in solving difficulties faced and in employment prospects
- b) New regulatory framework, with licensing (Art. 176-190) and inspection of social service providers (Art 168-175) against national minimum standards for social services with supervision function available to the social professionals and providers, both state and non-state;;
- c) Programs for improvement of social welfare by local self-governments (Art. 20), commissioning and contracting out the community-based social services through open and transparent procedures and earmarked transfers from central level (Art 207) to support the development of community-based social services;
- d) Active inclusion of the beneficiaries of financial social assistance to service provision and a proactive approach in designing support to individuals and families to respond to the social problems;
- e) Social services are grouped<sup>21</sup> enabling mainstreaming of the innovative and new social services and clear financing responsibilities (Art. 40).

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<sup>17</sup> The Law on the Prevention of Discrimination against People with Disabilities ("Official Gazette RS" No. 33/2006)

<sup>18</sup> The Law on the Prohibition of Discrimination ("Official Gazette RS" No. 22/2009)

<sup>19</sup> Law on Social Welfare ("Official Gazette RS" No. 24/2011)

<sup>20</sup> The Law on Financial Support to Families with Children ("Official Gazette RS" No 16/2002, 115/2005 and 107/2009)

<sup>21</sup> 1) assessment and planning services, 2) daily services in the community, 3) services supporting independent living, 4) counselling-therapy and socio-educational services, 5) placement services

**The Law on Financial Support to the Family with Children** (LFSFC, 2002, 2005, 2009) regulates state support measures and policies for families with children. The measures and instrument regulated by the Law are:

1. Maternity allowance;
2. Parental allowance;
3. Child allowance;
4. Pre-school attendance cost for children without parental care;
5. Pre-school attendance cost for children with disabilities and
6. Subsidies for the pre-school costs for children from financially deprived families (*the last three do not relate to preparatory pre-school program which is funded from the education budget*).

Only the pre-school subsidies cost is funded from the local budgets, while all other entitlements regulated by this Law are funded from the state budget.

The entitlements listed from 3 to 6 will be further analyzed in this study. At this point it is important to note that the legal design of the entitlements for pre-school support to vulnerable children is not aligned with the objectives of inclusive education.

Although formally part of the health legislation, **the Law on Red Cross** (LRC, 2005)<sup>22</sup> is a relevant legislation for the social support to vulnerable groups. It regulates the work of Red Cross in Serbia, as a humanitarian, independent, non-profit organization providing humanitarian and social support to the most vulnerable groups of population and preventive interventions.

Both the education and the social welfare system is regulated through a number of laws. An entire set of legislation from the social welfare area and also several articles of the legislative acts regulating education indicate a strong equity orientation of the social welfare and the education system, and round up a fair support system for poor and marginalized children. However, the fact remains that they need to be interpreted in combination in order to ascertain the particular types of entitlements to which a particular child might be eligible. The education legislation lacks a coherent set of measures addressing children from poverty backgrounds in a similarly comprehensive way as it addresses other groups of vulnerable children. Some measures designed for vulnerable groups might be also to the benefit of children from low SES families, some new measures have been introduced in the 2013 legislation, but many others are still missing. Also, the legislation from the two systems is partially not aligned (e.g. the Law on Financial Support to Family with Children does not support inclusive education objectives through its accessibility criteria for pre-school attendance and thus encourages enrolment in “developmental groups”). This Law requires improvement also in terms of modernizing instruments supporting pre-school education of vulnerable groups and their better coverage, improvement of child allowance program but also envisaging extended set of services for poor children and families.

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<sup>22</sup> The Law on Red Cross (“Official Gazette RS” No. 107/2005)