



# Status of vulnerable groups in the process of the accession of the Republic of Serbia to the EU

## SITUATION OVERVIEW: STATUS OF PERSONS WITH DISABILITIES

04 October 2021

### **The status of vulnerable groups from the aspect of compliance with obligations in the process of the accession of the Republic of Serbia to the European Union**

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European integration is a strategic goal of the Government of the Republic of Serbia. The process of adopting the required legislation and raising administrative capacities has been ongoing continuously since the start of accession negotiations in 2014. However, to improve the process of accession, the European Union (EU) adopted a new accession methodology on 5 February 2020 under the name "Enhancing the accession process – a credible EU perspective for the Western Balkans".<sup>1</sup> The European Commission adopted a document on 9 March 2021 whereby the new methodology applies to Serbia and Montenegro.<sup>2</sup> This methodology changed the way of monitoring Serbia's success in the EU accession process. Negotiation chapters are organized into thematic clusters to aim for a more dynamic approach and acceleration of reforms that the candidates need to implement. Negotiations will be opened in all chapters in a cluster simultaneously after the opening benchmarks are met.

The negotiation chapters were divided into 6 clusters: 1. Fundamentals; 2. Internal market; 3. Competitiveness and inclusive growth; 4. Green agenda and sustainable connectivity; 5. Resources, agriculture and cohesion; 6. External relations.

Vulnerable groups primarily have their place under the first (chapter 23 Judiciary and fundamental rights) and third cluster (chapter 19 Social policy and employment), and in a way they are intertwined with the other clusters. This methodology brought about specific changes within the institutional system of the Republic of Serbia, thus in May 2021, a Decision was adopted on establishing Coordination for running the accession negotiations of the Republic of Serbia to the European Union and the Team for supporting the negotiations.<sup>3</sup> This was aimed at harmonisation with the new methodology for monitoring success in the accession of Serbia to the European Union. Despite certain activities in 2020, Serbia did not open a single chapter nor the expected third cluster during the first half of 2021. Regarding European integration, 2020 will be remembered as the year of changing the existing frameworks and priorities of the EU and the year of the COVID 19 epidemic that also harmed the dynamics of

the European integration process for Serbia. However, there is progress. The Government of the Republic of Serbia adopted the Negotiation position and Action plan for Chapter 19 – Social policy and employment, and the revised Action plan for Chapter 23 – Judiciary and fundamental rights.

On the other hand, there is a notable delay in the implementation of activities envisaged by these plans that are important for improving the status of vulnerable groups. The activities primarily relate to improving the strategic and legislative framework and other public policies relevant to improving vulnerable groups' status. The Employment and Social Policy Reform Programme has ended, and the drafting of a similar document is not envisaged. In contrast, the implementation of structural reform in social welfare and inclusion defined by the Economic Reform Programme has been assessed as limited, insufficient, or partial for several years, implemented by the European Commission.<sup>4</sup>

The Social Inclusion and Poverty Reduction Unit of the Government of the Republic of Serbia has started an initiative to draft an analytical review of the status of vulnerable groups in the context of EU accession with the following objectives:

- To increase the visibility of the challenges faced by vulnerable social groups in the Republic of Serbia;
- To inform stakeholders on current processes in the development of the strategic and legislative framework in the field of social inclusion;
- To promote dialogue and cooperation in meeting the obligations under the process of

Serbia's accession to the EU in the field of social inclusion.

The series of informative analytical situation overviews on the status of vulnerable groups in the context of meeting the obligations in the process of European integration is intended for a broad circle of stakeholders: decision-makers, state administration and staff in local self-government units, development partners, civil society organisations, the academic community, journalists, and other stakeholders.

The situation overview covers the following vulnerable groups: persons with disabilities, LGBTI, women, children, the elderly, youth, Roma, national minorities, refugees and internally displaced persons, and persons living with HIV. This analysis covers the status of persons with disabilities in the process of Serbia's accession to the European Union.

### **The importance of improving the status of persons with disabilities at the European Union level**

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*"Persons with disabilities have the right to have good conditions in the workplace, to live independently, to have equal opportunities, to participate fully in the life of their community. All have a right to a life without barriers. And it is our obligation, as a community, to ensure their full participation in society, on an equal basis with others."*

- President of the European Commission Ursula von der Leyen

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*“Persons with disabilities should be able to participate equally in all areas of life. Living independently, learning in an inclusive environment and working with appropriate standards are conditions we need to provide to all citizens thus enabling them to flourish and live life to the maximum.”*

- European Commissioner for Equality Helena Dalli -

Although the past decades have brought progress in numerous areas, primarily in improving all forms of accessibility, the promotion, and improvement of the rights of persons with disabilities, many obstacles are still visible at the level of EU member states. These obstacles are mainly related to access to healthcare, education, employment, recreational activities, and participation in the political life of persons with disabilities. The European Commission recognised the importance of further continuous action, and thus in March 2021, it has adopted a new **Strategy on the Rights of Persons with Disabilities 2021-2030**.<sup>5</sup> With this strategic document, the European Commission wishes to ensure that all persons with disabilities are exercising their rights and have equal opportunities in all areas of life. The new Strategy is based on the evaluation of the results of achieving the strategic framework for the period until 2020<sup>6</sup>. It contributes to the implementation of the European Pillar of Social Rights<sup>7</sup> and the Action Plan for the European Pillar of Social Rights<sup>8</sup> that serves as a compass for employment and social policy in Europe, primarily for providing equal opportunities and access to the labour market, more equitable working conditions and social welfare

and inclusion. The European Social Fund (ESF+) is envisaged to be a mechanism that supports employment and social action in line with the European Pillar of Social Rights. The developed social indicators should ensure precise tools for monitoring and evaluating the situation in each member state.<sup>9</sup>

With the new strategic framework on the rights of persons with disabilities, the European Commission is providing a framework of support to EU and member state actions for the implementation of the United Nations Convention on the Rights of Persons with Disabilities<sup>10</sup> adopted by the UN in 2006 as the first mandatory international instrument for human rights related to persons with disabilities.

**The objectives of the EU Strategy on the Rights of Persons with Disabilities 2021-2030 are aimed at** ensuring the rights of all persons with disabilities in Europe, regardless of their gender, racial or ethnic origin, faith or religious belief, age or sexual orientation, to: exercise their human rights, have equal opportunities in all areas of life, equal access and opportunities to participate equitably in social and economic trends, be capable of deciding where, how and with whom they live, move freely in the EU regardless of the need for additional support, and not experience discrimination.<sup>11</sup> **It is essential for improving the status of persons with disabilities that action in the forthcoming ten-year period aims to improve** accessibility, access to social welfare, the judiciary, and legal protection. The new strategy contains an ambitious set of actions and initiatives in various domains and has numerous priorities, such as: movement and free-living in

any European Union country; exercising the right to appropriate support to improve the quality of life; independent living, and life outside institutions; active participation in the life of the community; making decisions on one's own life; equal opportunities for education, work, and employment; access to healthcare and other services; a relationship of respect towards persons with disabilities.<sup>12</sup>

**Accordingly, the key initiatives of the Strategy for the forthcoming period are aimed at the following goals and activities:**

- European Resource Centre *AccessibleEU*,
- European card for persons with disabilities,
- Package of measures for improving the status of persons with disabilities in the labour market,
- The platform for disability issues,
- New Human Resources Strategy.<sup>13</sup>

Persons with disabilities have the same right as other EU citizens to move to another country or participate in political life. Relying on the experience of a pilot project currently ongoing in eight countries, by the end of 2023, the European Commission will propose the introduction of a European card for persons with disabilities for all EU countries that will facilitate the mutual recognition of the status of persons with disabilities among member states, enabling them to enjoy the right to freedom of movement. Furthermore, based on the belief that persons with disabilities have the right to live independently and choose where and with whom they wish to live, the Commission will develop guidelines and

start an initiative for improving social services for persons with disabilities. The Strategy aims to protect persons with disabilities from all forms of discrimination and violence. The goal of one of the key initiatives will be ensuring equal opportunities in the judiciary, education, culture, sports, and tourism. Equal access must also be guaranteed to all healthcare services and employment. In the field of accessibility in 2022, a European Resource Centre "*AccessibleEU*" will be created to build a base of knowledge, information, and good practices on (physical and virtual) accessibility in various sectors.<sup>14</sup>

During the forthcoming period, the Commission will support member states in shaping their national strategies and action plans to implement further the United Nations Convention on the Rights of Persons with Disabilities and EU legislation in this field. Furthermore, aiming to support the dedication and efforts of all EU countries to implement the UN Convention on the Rights of Persons with Disabilities, a platform will be created to gather national authorities, organisations of persons with disabilities and the European Commission. Persons with disabilities will be part of the dialogue and involved in monitoring the implementation of the Strategy for the Rights of Persons with Disabilities 2021-2030. The European Commission is also committed to integrating the perspective of disability, i.e., issues of importance for exercising the rights of persons with disabilities in all EU policies and more significant initiatives and promoting the rights of persons with disabilities at the global level.

## **Status of persons with disabilities in the Republic of Serbia**

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**Just like in EU countries, persons with disabilities are one of the most vulnerable groups of the population in the Republic of Serbia regarding exercising rights and equal opportunities in various areas of life.**

Persons with disabilities encounter a number of issues - many public buildings and places are not accessible to them, access to information and communication is difficult for persons with sensory disabilities, persons with disabilities face considerable difficulties in exercising their voting rights, etc. Persons with intellectual and psychosocial impairments are still at risk of being declared legally incompetent, and the poor status of persons with mental and intellectual impairments in dormitory-style social welfare institutions is particularly concerning. **The deinstitutionalisation of children and adults is underway. Still, there are difficulties in its implementation,** primarily due to the insufficient and unequally developed support services and services for the independent living of persons with disabilities and their reintegration in all segments of society.

**There are no precise data on the number of persons with disabilities in the Republic of Serbia, but the Census of the Population, Households and Dwellings from 2011 has covered disability issues for the first time.** The collection of data during this census included questions on functionality and social integration (participation), reflected in a brief set of short questions on difficulties in functioning caused by healthcare issues. It used the social model

and approach to disability, whereby a person subjectively and independently assesses and reports whether they do or do not have difficulties in certain forms of functioning, with the existence of healthcare issues. The person can also evaluate that despite the existence of a healthcare limitation, there are no obstacles or difficulties in their functioning due to the support they are receiving, adaptations to their environment, or similar factors.<sup>15</sup>

**The results of the Population Census indicate that there are 571,780 persons with disabilities living in the Republic of Serbia, i.e., around 8% of the total population.**<sup>16</sup>

However, the number of persons with disabilities in Serbia is estimated to be higher, having in mind the fact that citizens do not have an obligation to respond to questions about disabilities during the population census. The share of women among persons with disabilities is somewhat higher (58.2%) than that of men. By type of impairment, the highest number are those with mobility impairments, and the fewest are persons with communication issues.

**According to the 2011 Population Census data, 12.4% of persons with disabilities were economically active, and only 9% were employed.**

Among persons with disabilities, the most frequent source of income were pensions (61.7%), or they belong to the category of supported persons (20.5%). In comparison, salaries or other work-based earnings are attained by 6.8%, and social assistance covers 4.9% of the total number of persons with disabilities. The share of women in the total number of supported persons with disabilities is 70.3%.<sup>17</sup>

The average number of persons with disabilities in the unemployment register has decreased during 2015-2019 by 1,912 persons. Still, the share of this category of the unemployed in total unemployment has increased by 0.5 p.p. (from 2.1% in 2015 to 2.6% in 2019).<sup>18</sup> Data from the National Employment Service indicate that the total number of unemployed persons with disabilities in 2020 (regardless of activity) was 19,226 (41.5% of women), while the number of active unemployed persons with disabilities was 12,528 (42.6% women), a decrease compared to 2018 when there were 14,562 (40.2% women) registered unemployed persons with disabilities.<sup>19</sup>

**The educational and age structure of unemployed persons with disabilities and the high share in long-term unemployment** represent an aggravating circumstance for the employment and inclusion of these persons into active labour market measures. In 2020 there were 38.8% of unemployed persons with disabilities without having graduated from secondary school, 54.7% have graduated from secondary school, and only 6.6% of persons had completed higher education. Regarding the age structure, only 11.6% of persons are under 30 years of age, while 46.7% of unemployed persons with disabilities are over 50 years of age.<sup>20</sup> A total of 76.4% of unemployed persons with disabilities have been looking for work for more than 12 months, while 61.9% of them have been looking for work for more than two years.

**The number of enterprises for the professional rehabilitation and employment of persons with disabilities has increased in recent years, thus in**

**September 2019, the total number of these enterprises with valid work permits was 57** (in 2013 the number of these enterprises was 45). A total of 956 persons with disabilities have been employed with a decision on work under general conditions (84.76%), while 172 persons with disabilities (15.24%) have been employed under special conditions (with adaptations to the job and/or workplace). Regarding the qualifications structure, the largest number of employed persons with disabilities are qualified workers with III degree professional qualifications (46.27%, with 36% women), followed by persons with disabilities with IV degree professional qualifications (20.36%, with 36% women), and semi-qualified workers with II degree professional qualifications (12.58%, with 41% women), followed by persons with disabilities who have completed primary education (12.15%, with 46% women).<sup>21</sup>

The lower education level of persons with disabilities and higher share in long-term unemployment represent important factors in their high unemployment rate and risk of poverty and social exclusion. **The educational structure of persons with disabilities is significantly more unfavourable than for the general population.** According to data from the Population Census, 53.3% of over-15 persons with disabilities have completed primary education or incomplete primary school, while only 6.6% have completed higher education. These differences are made more profound regarding the educational structure of persons with disabilities in urban and other environments. The highest difference is registered in rates of secondary school completion (37.8% of persons with disabilities from urban environments

have completed secondary school, while in other settlements, this percentage is merely 17.1). The results of the Census also show that women with disabilities have a lower level of education compared to men with disabilities.<sup>22</sup>

Educational reform in Serbia aims at the deinstitutionalisation and inclusion in regular schools of an increasing number of children that require additional support in education. The mentioned reflects on schools for the education of students with development impairments and disabilities. **Despite achieving a trend of reducing the number of students in segregated environments, the educational system of the Republic of Serbia still has primary and secondary schools and special classes for the education of students with development impairments and disabilities.** While the number of "special" classes in regular schools is decreasing, there are 48 schools in Serbia for the education of students with disabilities and development impairments<sup>23</sup>.

The number of persons with disabilities placed in various forms of accommodation (social welfare institutions for children and youth, dormitories for children with development impairments, institutions for the accommodation of adults and elderly persons, institutions for the accommodation of adults with disabilities, persons with mental development impairments and persons with psychosocial disability) was 15,748 in 2017 and 16,732 in 2018. The significant number of persons with disabilities in residential accommodation clearly shows the need for further action regarding the process of deinstitutionalisation in the field of social welfare.<sup>24</sup>

Another important factor that affects the status and social exclusion of persons with disabilities is **widespread prejudice and stereotypes on persons with disabilities, while institution staff still base their work on the medical model of disability.**<sup>25</sup>

**In 2020 the Protector of Citizens deliberated on 200 cases in the field of rights of persons with disabilities and the elderly, 60% more than in 2019.**<sup>26</sup> This report states that persons with disabilities still face problems in exercising their right to employment and professional rehabilitation, right to equal access to services and right of persons deprived of legal competence, violations of the rights of the elderly, and/or rights to the elderly in social welfare and healthcare institutions, right to social welfare services for the elderly and right to special healthcare for the elderly.

**Women with disabilities are at risk of discrimination on multiple grounds,** they are invisible in the public sphere, do not participate sufficiently in the public and political life, face difficulties in exercising their rights and are exposed to gender-based violence.<sup>27</sup>

**With the COVID-19 pandemic, digital accessibility has become, more than ever, a critical issue for vulnerable social groups and a key factor for the health, safety and welfare of persons with disabilities and the elderly.** The inaccessibility of any form of digital technology prevents persons with disabilities from accessing important information related to their health, safety and social welfare, as well as social and economic activities. Persons with disabilities and the elderly are more

than ever exposed to the risk of facing obstacles due to the lack of digital accessibility, required to safely purchase food and other products online, access emergency communication flows and healthcare services, and safely partake in distance learning and teleworking opportunities<sup>28</sup>.

### **Current strategic, institutional and legislative framework in the Republic of Serbia**

The first Strategy for the Improvement of the Status of Persons with Disabilities in the Republic of Serbia was adopted for the period 2007–2015, and the Analysis of the Level of Achievement of the Strategy Goals<sup>29</sup> and overview of efficiency of the planned and implemented measures provided for a review of areas important for the further improvement of the status of persons with disabilities and setting of new strategic goals. **The new strategic framework for improving the status of persons with Disabilities in the Republic of Serbia was adopted for the period 2020–2024<sup>30</sup>, along with the Action Plan for the implementation of the Strategy for 2021–2022<sup>31</sup>.** The overall goal of the Strategy is to equalise the opportunities of persons with disabilities to enjoy all civil, political, economic, social and cultural rights with full respect for their dignity and individual autonomy, ensuring independence, freedom of choice and full and effective participation in all areas of social life, including life in the community. The defined priorities of the Strategy are improving the overall social and economic status of persons with disabilities in the Republic of Serbia and their equal participation in society, by eliminating obstacles in the field

of accessibility, participation, equality, employment, education and training, social welfare, healthcare and other aspects that contribute to equalising their opportunities and achieving equality. The Strategy sets the framework for action towards achieving the equality of persons with disabilities, preventing discrimination, respecting dignity and creating conditions for persons with disabilities to exercise all their rights and freedoms on an equal footing and actively participate in all areas of society. The Strategy sets the specific objectives: increased social inclusion of persons with disabilities, ensured exercise of the right to legal competence and family life, efficient protection from discrimination, violence and abuse, and systematic introduction of the perspective of disability in the adoption, implementation and monitoring of public policy.

**A draft Strategy for Deinstitutionalisation and Development of Social Welfare Services 2021 – 2026 was prepared<sup>32</sup>** and in May 2021, the public review was completed. The draft Strategy represents a harmonised system of measures, conditions, and public policy instruments that the Republic of Serbia needs to implement to prevent institutionalisation, i.e. reduce the number of citizens using dormitory accommodation services. The Strategy should enable the development of community-based social welfare services, contributing to those beneficiaries of the social welfare system that need more intensive support to meet most of their needs in their natural environment. It is primarily aimed at persons with intellectual and mental impairments at the highest risk of institutionalisation and social exclusion. The main goal of



the Strategy for Deinstitutionalisation in the social welfare system is exercising the right to life in the community for social welfare beneficiaries through the processes of deinstitutionalisation and social inclusion. This goal will be achieved through a set of specific objectives and activities that will prevent the placement of beneficiaries in institutions, i.e. facilitate their return to local communities through the development of community-based services, securing stable sources of funding and conditions for integration. The Ministry of Labour, Employment, Veteran and Social Affairs governs the process, and it endeavours to improve the strategic framework in this field, create the conditions for the transformation of accommodation institutions, raise the capacities of institutions and organisations that provide community-based services for persons with intellectual and mental impairments in communication. Furthermore, it improved the coordination of key stakeholders and raised the awareness of citizens and decision makers on the integration of persons with mental and intellectual impairments in the community.

**The objectives set by sectoral strategic documents recognising the specific nature of the status and needs of persons with disabilities are also important for improving their status.** Strategies in the field of education, healthcare, employment, gender equality, prevention and protection from discrimination also define specific measures and activities related to the improvement of the status of persons with disabilities.

The **Employment Strategy in the Republic of Serbia 2021-2026**<sup>33</sup> recognises persons with disabilities as

one of the harder-to-employ categories of the population. The Strategy envisages the implementation of active labour market policies, improvement of their performance, creation of new policies, the progress of the monitoring of the situation and trends in the labour market, and the outcomes and impact of these measures. Specific measures envisaging the improvement of the status of persons with disabilities are aimed at: promoting employment in the open labour market, increasing efficiency in work and learning through combining various procedures through inclusive learning and additional support and assistance measures, establishing mechanisms for preparation and support in the workplace, particularly for persons with disabilities being employed under special conditions. It also envisages using an individual approach in the assessment of needs, based on social criteria and integrated service provision. Furthermore, in parallel with the improvement of the methodology of professional counselling work with unemployed persons with disabilities, it envisages continued assessments and evaluations of the harmonisation of available services and measures for the professional rehabilitation of persons with disabilities. It also prescribes measures such as support to employers (advisory and incentive measures to create conditions for the employment and maintenance of employment of persons with disabilities) with the exhibited needs of the labour market, to develop new affirmative support measures in a longer time frame, followed by an appropriate financial framework. For the first time, it also envisages establishing a database on the total number of employed or working persons with disabilities in the Republic of Serbia through amendments to the

Regulation on the contents, form, and method of submitting single applications to mandatory social insurance, single methodological principles and single codebook for registration of data in the unified database of the central register of mandatory social insurance.

**The new strategic framework defining the Republic of Serbia's objectives in improving education by 2030 and the relevant Action Plan for the implementation of the Strategy for the Development of Education 2021-2023 was adopted in June 2021.**<sup>34</sup>

The previous strategic framework defined for the period until 2020 placed particular emphasis on improving inclusive education. In comparison to that, the new strategic framework also recognises the importance of additional support systems for vulnerable social groups and the inclusion of a greater number of children with disabilities and development impairments in the regular education system. The focus for the strategic objectives is on the following: further development and full implementation of the legal and strategic framework and its harmonisation with confirmed international agreements and generally accepted standards in the field of inclusive education; further development of inclusive education management and financing; maintenance and improvement of the system of additional support for children with development impairments and disabilities; raising human capacities for the implementation and monitoring of inclusive education; further sustainable investment into improving teacher competences for inclusive education; improving the physical, communication and information accessibility of the educational system; promoting the

long-term impact of inclusive education. The desired state by 2030 is to make education based on principles of social justice and equal opportunities for all children, without discrimination.

**The National Youth Strategy 2015-2025**<sup>35</sup> defines objectives important for improving the opportunity for equal access to all areas of life for youth from vulnerable groups through the provision of various types of support for young people with disabilities, such as developing a programme for the prevention of early drop-out and recognition of youth at risk of drop-out, support for young people for inclusion in the labour market, measures that should contribute to reducing discrimination towards youth with disabilities and greater participation of youth in all areas of society.

**The National Strategy for Gender Equality was in force for 2016-2020**<sup>36</sup>

and it supported the implementation of anti-discriminatory provisions and special measures envisaged to improve the status of members of vulnerable groups. Keeping in mind that women with disabilities are particularly vulnerable, the creation of strategic measures that further enable the improvement of the status of women and prevention of exclusion on multiple grounds are of particular importance. The drafting of a new Strategy for Gender Equality is underway, and its adoption is expected by the end of the year.

**The Strategy of Prevention and Protection from Discrimination 2013-2018**<sup>37</sup> is the first such strategy adopted as a harmonised system of public policy measures, conditions and instruments the Republic of Serbia was supposed to implement to prevent and/or reduce all

forms and specific cases of discrimination. The Strategy covers all persons and groups of persons regarding their personal characteristics, particularly national minorities and vulnerable social groups most frequently subject to discrimination. An Impact Analysis for this strategic document was produced in 2019<sup>38</sup>, as the baseline for drafting a new Strategy of Prevention and Protection from Discrimination 2020-2025, the drafting of the new strategic framework has been initiated, a working group has been formed, and the preparation of the draft Strategy will follow. Following the Work Plan of the Government of the Republic of Serbia, the adoption of this strategy and the relevant Action Plan is envisaged by the end of 2021.

The drafting of the Social Welfare Strategy was initiated in 2019, but it has not been adopted yet.<sup>39</sup> The last strategic document in this field was created in 2005, without a clearly defined term of validity. Lacking a coherent strategic framework in social welfare, the Government of the Republic of Serbia guided reform in social welfare through National Reports on Social Inclusion and Poverty Reduction, adopted in three-year periods. Three reports have been published thus far, and the drafting of a fourth one is underway. Furthermore, based on an initiative of the European Commission under the process of European integration, through a highly participative process, an Employment and Social Policy Reform Programme (ESRP) has been drafted, containing, to a considerable extent, measures in the field of social welfare by 2020. However, the drafting of a new ESRP has not been initiated. The Economic Reform Programme (ERP) annually harmonises a smaller number of measures related to

social welfare and employment (the ERP for 2021-2023 was adopted in early 2021).<sup>40</sup>

**The strategic documents in the field of healthcare** relevant for the improvement of the status of persons with disabilities are the Public Health Strategy 2028-2026<sup>41</sup> and the **National Programme for Rare Diseases 2020 – 2022**<sup>42</sup> harmonised with the European "Health 2020" policy and noting the value of action for achieving good health, covering equality, sustainability, quality, transparency, responsibility, gender equality, dignity, and the right to participation in decisions for all citizens.<sup>43</sup>

**With the establishment of the Department for the Protection of Persons with Disabilities at the Ministry of Labour, Employment and Social Policy in 2004**, persons with disabilities have gained a partner whose main task is to protect and improve their status through cooperation with various organisations and directly with associations and persons with disabilities. A particularly important role in the partner relationship of the Department for the Protection of Persons with Disabilities is played by the **National Organisation of Persons with Disabilities of Serbia (NOOIS), established in 2007 with the aim of representing a unified movement of persons with disabilities in Serbia**. This "umbrella" organisation represents over 870,000 persons with disabilities and their legal representatives involved in associations of organisation of persons with individual types of disabilities, organisations of legal representatives of persons with disabilities, and interest organisations that gather persons with various forms of disability. NOOIS is also

active at the international level. Since its establishment NOOIS has been an associate member of the largest and most important European umbrella organisation – *European Disability Forum* and is also a member of *Disability People International*.<sup>44</sup>

The Ministry of Labour, Employment, Veteran and Social Affairs, in cooperation with this umbrella organisation, regularly publishes the **Guide for the Exercise of Rights of Persons with Disabilities**<sup>45</sup>, conditions for their exercise, and/or use of institutional services in all protection systems envisaged by the legal framework of the Republic of Serbia: social welfare, healthcare, family-legal protection of children and families, education, employment and labour relations, pension and disability insurance, transport and the field of the tax and legal system, housing, prevention of discrimination, etc.<sup>46</sup>

In 2005 the Republic of Serbia formed a **Council for Persons with Disabilities, as an expert and advisory body of the Government of the Republic of Serbia**. During the implementation of the first Strategy, by Government decision in 2013, the Council was established in a new convocation. In July 2021, the new Council was formed, and the first constitutive session was held.

**The legal framework for regulating the status of persons with disabilities has been considerably improved in the preceding period.** The legal framework largely respects the principle based on human rights and the social model of disability. Still, further systemic work is to be done in monitoring the implementation of regulations and further harmonisation of the legal framework

with international and EU standards. Of particular importance are regulations on the prohibition of discrimination, Law on Professional Rehabilitation and Employment of Persons with Disabilities, Law on Social Welfare, regulations in the field of education, healthcare, Law on the Use of Sign Language, and Convention on the Rights of Persons with Disabilities.

**The Law on the Prohibition of Discrimination defines the forms and cases of discrimination and procedures for protection from discrimination.**

This law notes that all citizens are equal and should enjoy an equal status and equal legal protection, regardless of their personal characteristics. Everyone must respect the principle of equality, i.e., prohibition of discrimination. The law, *inter alia*, defines that everyone has the right to healthcare and social protection, and access to all levels of education under equal conditions and without discrimination. Amendments to the Law on the Prohibition of Discrimination were adopted in 2021.<sup>47</sup>

**The Law on the Prohibition of Discrimination of Persons with Disabilities**<sup>48</sup> regulates general principles of the prohibition of discrimination based on disability, reactions to specific cases of discrimination against persons with disabilities, the procedure for the protection of persons subjected to discrimination and measures undertaken to promote equality and the social inclusion of persons with disabilities. This law is based on the following principles:

prohibition of discrimination of persons with disabilities; respect for human rights and dignity of persons with disabilities; inclusion of persons with disabilities in all areas of social life on an equal footing; inclusion of persons with disabilities in all

processes where decisions are made on their rights and obligations; equal rights and obligations.<sup>47</sup>

### **The Law Confirming the Convention on the Rights of Persons with Disabilities<sup>49</sup>**

confirmed the Convention on the Rights of Persons with Disabilities adopted at the 61st session of the United Nations General Assembly in 2006 and came into force in 2008. The Convention on the Rights of Persons with Disabilities of the United Nations with its Optional Protocol is one of the most important international documents that is, after its ratification, legally binding for member states. This Convention aims to improve, protect, and ensure the full and equal exercise of all human rights and fundamental freedoms of all persons with disabilities and improve the respect for their innate dignity. The states that have ratified the convention undertake the obligation: a) to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention; b) to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities; c) to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes; d) to refrain from engaging in any act or practice that is inconsistent with the Convention and ensure that public authorities and institutions act in conformity with the Convention; e) to take all appropriate measures to eliminate discrimination based on disability by any person, organization or private enterprise; f) to undertake or promote research and development of universally designed goods, services, equipment and facilities,

as defined in article 2 of the Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines; g) to undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost; h) to provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities; i) to promote the training of professionals and staff working with persons with disabilities in the rights recognized in the Convention so as to better provide the assistance and services guaranteed by those rights.

**The Law on Social Welfare<sup>50</sup>** regulates the right to financial handouts aimed at persons in poverty (financial social assistance, one-off assistance) and handouts for persons with disabilities (allowance and increased allowance for assistance and care for another person), social welfare services, institutions and service providers, quality control mechanisms, and competences in the establishment and funding. This law establishes social welfare as an organised social activity of public interest aimed at providing assistance and empowerment for independent and productive life in the society for individuals and families and the prevention of the occurrence and elimination of consequences of

social exclusion. This law represents the legal basis for implementing activation measures for beneficiaries of financial social assistance and cooperation between social work centres and the National Employment Service. Furthermore, the Law on Social Welfare pluralises and diversifies social welfare, both at the level of social welfare services and service providers. Priority goals for social welfare are being achieved by ensuring material support for individuals, and/or families that have such needs, but also by providing social welfare services, enabling the following: achievement, and/or maintenance of minimum material security and independence of individuals and families in meeting their life needs; ensuring the accessibility of services and exercise of rights in social welfare; creation of equal opportunities for independent life and promotion of social inclusion; preservation and improvement of family relations and improvement of family, gender and intergenerational solidarity; prevention of abuse, neglect or exploitation, and/or elimination of their consequences. In mid-2018 the Ministry of Labour, Employment, Veteran and Social Affairs has prepared a draft Law on amendments to the Law on Social Welfare, envisaging numerous changes aimed at more effective and efficient implementation of legal solutions. The public review of the Law on Social Welfare amendments was implemented in 2018, but the new law has not been adopted yet.

**The Law on Employment and Unemployment Insurance**<sup>51</sup> defines duties related to employment-related to informing persons about employment opportunities and conditions, mediation in employment locally and abroad,

professional orientation and career planning counselling, implementation of active labour market measures, issuing work permits for foreign nationals and stateless persons, in accordance with the law.

**The Law on the Professional Rehabilitation and Employment of Persons with Disabilities**<sup>52</sup> regulates incentives for the employment of persons with disabilities to create conditions for their equitable inclusion in the labour market, assessment of work capabilities, professional rehabilitation, obligation of employing persons with disabilities, conditions for establishing and performing the work of enterprises for the professional rehabilitation and employment of persons with disabilities, and other specific forms of employment and work engagement of persons with disabilities and other issues relevant for the professional rehabilitation and employment of persons with disabilities.

**The Law on the Fundamentals of the Education System (ZOSOV) envisages numerous provisions relevant for improving inclusive education.**<sup>53</sup> The Law prescribes that for a child, student or adult who, due to social deprivation, development impairments, disability, learning difficulties, risk of early drop-out, or other reasons requires additional education support, the institution shall provide for the elimination of physical and communication barriers, adaptation of the method of implementing the curricula and drafting, adoption and implementation of an individual education plan. An intersectoral committee assesses the needs of the child, student or adult for additional educational, healthcare or social support. Additional support

relates to the rights and services ensuring the child overcomes physical and social barriers to perform, without obstacles, everyday life activities relevant for inclusion in the educational process, life in the community, and progress. A Rulebook on the actions of an institution in case of suspicion or identified discriminatory behaviour and offences against the reputation, honour or dignity of a person has been adopted.<sup>54</sup> Laws and by-laws explicitly define that within an institution it is prohibited to engage in discrimination or discriminatory treatment that directly or indirectly, overtly or covertly, makes an unjustified difference or unequal treatment, and/or omission (exclusion, limitation, or prioritisation) compared to persons or groups of persons, as well as members of their families or persons close to them, overtly or covertly.

**The Law on the Use of Sign Language<sup>55</sup>** regulates the use of sign language, the right to study sign language and right to the use of the services of a sign language interpreter, method of use of services of a sign language interpreter, measures to promote the use and improvement of the use of sign languages through information and education in sign language and other issues relevant for the use of sign language. This law provides for the implementation of educational work in educational institutions and studies in higher education institutions in sign language for deaf persons, in accordance with their needs.

**The Law confirming the Marrakesh Agreement<sup>56</sup>** provides access to published works for persons who are blind, have vision impairments, or are otherwise prevented from using print material. The Agreement was adopted in 2013, and

ratified in the Republic of Serbia in 2020. **The Law on Planning and Construction<sup>57</sup>** prescribes that buildings for public and business purposes must be designed and built to provide persons with disabilities, children and the elderly with unfettered access, movement, stay and work. Residential and residential-commercial buildings with ten and more floors must be designed and built so that persons with disabilities, children and the elderly are provided with unfettered access, movement, stay and work. A by-law, the **Rulebook on technical standards for planning, design and construction of buildings, ensuring the unfettered movement and access of persons with disabilities, children and the elderly<sup>58</sup>** prescribes standards that further define mandatory technical measures and conditions for the design, planning and construction of buildings providing for unfettered movement and access to persons with disabilities, children and the elderly.

**The Law on Movement with a Guide Dog<sup>59</sup>** regulates the right of persons with disabilities to movement with a guide dog in public transport, buildings and areas in public use, and in workspaces. This law provides for the exercise of constitutionally guaranteed fundamental principles related to the exercise of human rights, particularly prohibition of discrimination and introduction of special measures to achieve the full equality of persons with disabilities with other citizens and elaboration of the right to dignity and free development of personality.

Ensuring digital accessibility has been defined through a set of laws. **The Law on Electronic Communication<sup>60</sup>** defines the importance of ensuring access to

universal service to all citizens of the Republic of Serbia, while meeting the needs of specific social groups, including persons with disabilities, the elderly and socially vulnerable users, as well as ensuring maximum benefits for users of electronic communication, particularly persons with disabilities, the elderly and socially vulnerable users, especially in regards to choice, price and quality.

**The Law on e-Government**<sup>61</sup> envisages that all beneficiaries of e-government services have the right to access electronic data and documents in the same way and under the same conditions and to be equal in exercising this right. E-Government services are provided to ensure access to persons with disabilities without technical, audio-visual, semantic or linguistic limitations.

**The Regulation on the further conditions for the development and maintenance of websites of public administration bodies**<sup>62</sup> elaborates on the accessibility and activities public administration bodies should undertake to make their websites accessible.

### **Assessment and overview of the situation and obligations of the Republic of Serbia in the process of EU accession**

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The obligations of the Republic of Serbia in the process of accession to the European Union in regards to the improvement of the status of persons with disabilities are primarily defined through chapter 19 - Social Policy and Employment and chapter 23 - Judiciary and Fundamental Rights. The Government of the Republic of Serbia

adopted the Negotiation Position and Action Plan for chapter 19 in May 2020.<sup>63</sup> Chapter 23 was opened in 2016 and after several revisions, the latest Action Plan for this chapter was adopted in July 2020.<sup>64</sup>

**Chapter 19 – Social Policy and Employment.** The key objectives of the European Union in the field of social policy and employment are the improvement of the social welfare system, increasing the educational level of the workforce, achieving a high employment rate with special care for categories that are underrepresented in the labour market, ensuring adequate working conditions and social inclusion. **The EU Acquis regarding social policy and employment** includes minimum standards in the fields of labour law, equal opportunities, occupational health and safety and anti-discrimination. Member states take part in EU-level processes in the field of employment policy, social inclusion and social welfare. The social partners of member states take part in a social dialogue at the European level. The European Social Fund is the chief financial instrument used by the EU to support the implementation of their employment strategy and contribute to efforts for social inclusion.

In the field of labour legislation, the EU Acquis is also aimed at establishing equal opportunities for all, the safeguarding of the principle of equal pay for equal work, the prohibition of discrimination on any grounds, and the strengthening of social dialogue. Standards that EU policies in this field are based on are adopted with accession to the European Union. In addition to compliance with obligations in the process

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of EU accession it is important to note that policies and measures in this field are important for improving the quality of life of all citizens of Serbia, particularly for the process of social inclusion of vulnerable groups through: improvement of the social welfare system; raising the educational level of the workforce; achieving a high employment rate and prohibition of discrimination in employment and other areas of life.

**Chapter 23 - Judiciary and Fundamental Rights relates to compliance with political criteria that represent a fundamental precondition for further European integration for countries in the accession process.**

The number of regulations on this subject matter at the level of the European Union is low, since it is mostly left to the member states to best regulate these issues and through best European practices comply with standards that represent the foundational values the European Union rests on. Fundamental rights cover an entire spectrum of ensuring the safeguarding of human and minority rights. The European Charter on Human Rights and Freedoms is part of the European Union Acquis that also covers all international instruments in this field, primarily international instruments adopted within the Council of Europe and United Nations.

**The Progress Report for the Republic of Serbia in the process of EU Accession for 2020 notes several key assessments** regarding Serbia's compliance with obligations regarding the improvement of the status and social inclusion of persons with disabilities.<sup>65</sup>

**In the field of anti-discrimination, the legal framework is considerably in line with European standards, but not all**

**amendments and by-laws have been adopted yet** that will respond to Serbia's obligations and further harmonisation with European legislation. Amendments to the Law on the Prohibition of Discrimination were adopted in 2021, and a new assessment by the European Commission is forthcoming on the harmonisation of these changes with Serbia's obligations in the process of EU accession. The adoption of the strategic framework for improving the status of persons with disabilities was assessed as an important step forward, but the Progress Report also notes that the Strategy for Preventing and Combating Discrimination expired in 2018, and no new strategic framework has been developed yet, and there is still no comprehensive Strategy for deinstitutionalisation (at the time that Report was published Strategy was not adopted, new assessment for 2021 will be announced in recent period). According to the annual report by the Commissioner for Equality, the majority of complaints filed are related to discrimination based on disability, age and sex. Serbia has also adopted a Mental Health Strategy in 2019, but the accommodation, and treatment of persons with psycho-social and intellectual impairments in institutions has still not been regulated in line with the UN Convention on the Rights of Persons with Disabilities. Women with disabilities in residential institutions are particularly exposed to gender-specific forms of violence - forced contraception, forced sterilisation and forced abortion. There is a lack of funds for the development of community-based services, and support for licensed social welfare service providers. During the first three weeks of the state of emergency caused by COVID-19, persons with disabilities were not provided home assistance

services, since service providers did not have permits for free movement during the state of emergency. Children with development impairments and autism were also particularly exposed to additional risks and negative effects during the curfew. Certain measures were introduced and improved after reactions by non-government organisations and the Protector of Citizens.

**Certain progress was made in the field of education in increasing the coverage of students from vulnerable groups at all levels of education,**

due primarily to measures such as affirmative action and raising the number of pedagogical assistants in schools. The adoption of the Rulebook for pedagogic and andragogic assistants<sup>66</sup> is also important, as a step towards regulating the conditions for their hiring and increased activity in combating discrimination and violence in schools. However, it is necessary to further strengthen the implementation of measures for reducing the drop-out rate and intensify work on preventing segregation and increasing the number of children with development impairments in regular schools with adequate support systems. The importance of further work at the local level that could contribute to improving the status of children with disabilities is particularly emphasised.

In addition to Serbia's obligations in the process of European Union accession, it is important to note that in the field of human rights the value, conceptual and normative framework are defined by the fact that the Republic of Serbia has ratified numerous relevant international conventions and documents in this field.

**The Republic of Serbia signed the UN Convention on the Rights of Persons with Disabilities and the Optional Protocol**

in 2007, and in 2009 it has adopted a law confirming the Convention on the Rights of Persons with Disabilities, adopted at the 61st Session of the United Nations General Assembly in 2006.<sup>67</sup> Serbia has thus undertaken the obligation to submit periodic reports to the Committee for the Rights of Persons with Disabilities on measures undertaken for compliance with obligations from the Convention. Furthermore, the Council for Monitoring the Implementation of Recommendations by UN Human Rights Mechanisms was established in 2015, as an important mechanism for monitoring the implementation of recommendations arising from the work of United Nations human rights mechanisms that is important for improving the status of persons with disabilities and other vulnerable groups.<sup>68</sup> The improvement of the right of the Council and monitoring of the implementation of recommendations are important not only to respond to undertaken international commitments, but also to improve the respect and exercise of the rights of all citizens of the Republic of Serbia.

Regarding the international framework in this field, of particular importance is the **UN Sustainable Development Agenda by 2030**<sup>69</sup>, where the improvement of the status of persons with disabilities is primarily listed under sustainable development goals (SDG) related to education, growth and employment, equality and protection from discrimination. SDG 4 relates to ensuring inclusive and quality education for all, as well as equal access to all levels of education and professional training, including persons with disabilities,

SDG 5 to achieving gender equality and empowering all women and girls, including women and girls with disabilities, while SDG 10 relates to reducing inequalities within and between states by strengthening and promoting social, economic, and political inclusion for all, including persons with disabilities.

The Republic of Serbia is also a member of the Council of Europe, thus regional documents on human rights are also relevant for this field, in particular the **European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol no. 12 (2000) to the European Convention**<sup>70</sup>. This convention regulates the prohibition of discrimination, of extreme importance for the status of persons with disabilities, while Protocol no. 12 recognises the right to non-discrimination for achieving all rights guaranteed by the national legislations of signatory countries.

Furthermore, the **Revised European Social Charter**<sup>71</sup> was ratified in 2009, the main Council of Europe document in the field of labour and social rights. The new Council of Europe Strategy on Persons with Disabilities 2017–2023<sup>72</sup> is also relevant, identifying as its overall goal the achievement of equality, dignity and equal rights for persons with disabilities, through five priority areas: equality and prohibition of discrimination; raising awareness; accessibility; equal recognition before the law; and freedom from exploitation, abuse and neglect. Furthermore, it was noted that during the implementation of all activities it is necessary to keep in mind: participation, cooperation and coordination; universal design and reasonable adaptation; gender equality; multiple grounds for discrimination; and education and training.

## **Key recommendations for improving the status of persons with disabilities in the context of the accession of the Republic of Serbia to the EU.**

**Persons with disabilities are still often facing discrimination, mainly due to limited access to constitutionally and legally guaranteed rights.** The main challenges persons with disabilities face include: obstacles in movement and use of public transport; accessibility of various public buildings, access to services and information; limited opportunities for employment and reasonable adaptation of workplace conditions; access to education and professional training; right to choice where and how they will live. The Republic of Serbia has the duty to protect all its citizens from discrimination and social exclusion. Equal rights in all areas of society, the social inclusion and participation of persons with disabilities require the Government of the Republic of Serbia and all institutions at the national and local level to join and take action in partnership with civil society and international organisations, with full participation of persons with disabilities in the processes. Compliance and monitoring of the implementation of undertaken international obligations and a joint long-term vision can produce significant progress and make it possible for Serbia to be a country where all individuals have equal rights and opportunities in all walks of life.

The forthcoming period requires further work **on the harmonisation of laws that regulate certain rights of persons with disabilities with relevant international regulations**, particularly the Convention

on the Rights of Persons with Disabilities of the United Nations and the European Union Acquis. The improvement of laws should primarily provide for the elimination of all obstacles to making the physical and social environment accessible for persons with disabilities and achieving their full integration in all segments of life.

**In the Republic of Serbia, the concept of reasonable adaptation has still not been adequately developed,** and it is not explicitly prescribed that refusal of reasonable adaptation is a form of discrimination based on disability, contrary to international practices in this field. Furthermore, the **Law on the Protection of Persons with Mental Impairments allows for deprivation of liberty based on disability** and allows for placement in a psychiatric institution without consent, and the forced placement of children and adults with mental and/or psychosocial impairments in institutions, contrary to international standards, thus requiring harmonisations, and/or amendments to the law. **An analysis of the use of the Law on Sign Language** has shown that the law does not recognise two important rights - the right to communication in sign language and the right to learning/education in sign language, and in this regard the legal solutions should be improved. Furthermore, the legislation of the Republic of Serbia still contains the option of declaring a person legally incompetent due to disability. To ensure equal recognition of persons with disabilities before the law, it is necessary to fully reform the system of **revoking legal competence and guardianship, involving changes to the Family Law and Law on Extrajudicial Proceedings.** **It is necessary to accelerate the adoption of relevant legal and strategic documents,** such as: the new law and

strategic framework defining priorities in the field of social welfare and prohibition of discrimination.

It is necessary to secure the resources and accelerate the process of deinstitutionalisation, and the protection of persons with disabilities, in particular the status and protection of women in residential accommodation.

**It is important to work further on improving digital accessibility and enabling persons living with some form of disability to be able to use information-communication technology (ICT)** to exercise their fundamental rights and be empowered. One of the key steps towards achieving this goal is establishing a favourable environment for ICT accessibility. It is necessary to undertake specific steps to create policies and establish a regulatory framework to ensure persons with disabilities can use these technologies under equal conditions. The development of accessible ICT requires guiding and strengthening activities in an integrated and networked manner. It is important to include various stakeholders in the development of digital inclusion policies and strategies, and it is necessary to create a stimulating environment for cooperation among all parties interested and responsible for accessibility and inclusion.

**During the forthcoming period it is necessary to improve the efficiency of the work of established mechanisms for coordination, monitoring and reporting on the implementation of strategic objectives and measures defined by the Strategy for the Improvement of the Rights of Persons with Disabilities.** The

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improvement of the work of the Council for Persons with Disabilities of the Government of the Republic of Serbia can contribute to the timely monitoring of compliance with set objectives not only related to undertaken international obligations, but also better coordination

among various institutions and all stakeholders, and more effective use of resources and funds from the budget of the Republic of Serbia, international donors and primarily European Union funds.

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