



**Convention on the Rights
of Persons with Disabilities**

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Serbia

Addendum

**Information received from Serbia on follow-up to the
concluding observations***

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* The present document is being issued without formal editing.



Recommendation 34

1. The Law on Patients' Rights governs the right to consent to medical measure. No medical measure can be implemented without the consent of the patient, including persons with disabilities, except when it comes to children under 15 and persons deprived of legal capacity, when the measures are approved by the legal guardian. Medical measure against the will of the patient, or legal guardian of a child or patient deprived of legal capacity, can only be undertaken **in exceptional cases, as specified by the law and which are in accordance with medical ethics**. The patient is not bound by the consent if it was not preceded by the necessary information in accordance with Article 11 of this Law, and competent health worker who undertakes medical measure in this case bears the risk for adverse effects.

2. The Family Law prescribes the obligation of the guardian that the decision to undertake medical interventions may be made only with the prior consent of the guardianship authority. The process of deciding on submitted application must contain an obligation for the person under guardianship to participate in it, in order to determine their opinion and attitude in accordance with the state of their mental health. In this respect, the client has the right to appeal on decision of the guardianship authority on giving or not giving consent for the application of medical measure.

3. The planned amendments to the Family Law will abolish the full deprivation of legal capacity and define the obligation to provide relevant involvement, participation of persons under guardianship in all proceedings affecting their rights, interests and needs.

4. Amendments to the Law on Extra-Judicial Proceedings, relating to court proceedings for deprivation of legal capacity, have introduced the mandatory participation of the person against whom the proceedings were instituted, their hearing and possibility of filing legal remedies. Also, by the decision on deprivation of legal capacity, the court shall determine the period in which it is obliged to examine the existence of the reasons for the continuation of the imposed measure, which may not be longer than three years. The provisions of the Family Law prescribe the possibility of filing two types of complaints: on the work of guardianship authority and the work of guardian. Both complaints can be filed by the client who is capable of reasoning. In addition, an appeal against the decision on appointment of a specific person to act as a guardian may be submitted by the person to whom the guardian was appointed, or their representative.

5. Penal provisions of the Law on Patients' Rights, under Article 44, Paragraph 1, Item 2, provide for misdemeanor liability of the medical institution or other legal entity that performs healthcare activity if medical measures are taken without the patient's consent or against their will or without the consent of the legal guardian of a child or a patient deprived of legal capacity. Under Article 46, Paragraph 1, Items 2 and 4, it also provides for misdemeanor liability of a health professional, if they do not provide to the patient or legal guardian information necessary for the patient or their legal representative to make a decision on approval or rejection of a proposed medical measure, or without the patient's consent or against their will or without the consent of the legal representative of a child or a patient deprived of legal capacity, to undertake medical measure on patient.

6. Health Councils established in local self-governments submit an annual report on their activities and measures taken to protect the rights of patients, to the competent authority of the local self-government unit, the ministry responsible for health, and in the territory of the Autonomous Province, to administrative authority responsible for healthcare. According to the report of the Health Councils of the local self-governments in the territory of the APVojvodina for 2015 and 2016 to Provincial Department of Health, there were no complaints of patients related to medical measure undertaken without the consent of the patient.

7. MLEVSA¹ which is in charge of the social welfare institutions for accommodation of beneficiaries and which supervises the professional work and the legality of the centers

¹ Ministry of Labor, Employment and Social Issues.

for social work — guardianship authorities that appoint the guardian and control the work of the guardian, has no knowledge that the sterilization measures in relation to persons with disabilities were undertaken.

8. Article 59 of the Law on Social Protection defines healthcare in homes for accommodation. Namely, when healthcare services are provided in homes for accommodation, they are realized under the conditions and with application of the standards established in accordance with the law governing healthcare. Compliance with requirements to perform certain healthcare activities in homes for accommodation is determined by the ministry responsible for healthcare in accordance with the law governing healthcare.

9. The control of compliance with regulations governing healthcare of beneficiaries in institutions is the responsibility of the Ministry of Health, Inspection Operations Sector, Department of Health Inspection.

10. In the case of admission to psychiatric institution without consent, the emergency tests are performed and the competent court is informed within 24 hours. Within three days of receiving notification on detention, the court is obliged to hold a hearing in the institution in which the person was detained and to hear the person on whose detention it decides.

11. The procedure of prescribing and dispensing of prescription medicines, including psychiatric treatments, is regulated by the Law on Health Insurance and the Regulation on the method of prescribing and dispensing of medicines. If the institution has an employed doctor, he/she is responsible for the implementation and compliance with regulations and procedures of healthcare, as well as strict adherence to procedures of prescribing psychiatric medicines by a specialist in psychiatry from the reference health institution responsible for diagnosis and treatment of a particular beneficiary.

12. Control of the work of social protection institutions, in order to protect the interests and rights of beneficiaries accommodated, is performed by the inspection of the MLEVSA.

13. In order to improve the legal framework governing the issues of consent to medical measure without the approval of persons with disabilities, the Ministry of Justice, as the coordinator of the Negotiating Chapter 23: Judiciary and Fundamental Rights, will initiate the establishment of Joint Working Group, which would be composed of representatives of the competent ministries, for social protection, health and justice. In the process of Serbia's EU accession, one of transitional measures is implementation of the Convention on the Rights of Persons with Disabilities, and in that sense, the Ministry will take active measures, in accordance with its competence, in order to fulfill the recommendation 34.

Recommendation 54

14. There were 15,778 unemployed persons with disabilities, of whom 5,804 women (36.78%), registered with the National Employment Service (NES) in 2016, which is 2.3% compared to the total number of persons registered with NES (700, 947).

15. According to disability categories, the structure is as follows: war-disabled persons 1,086 (6.88%), peacetime war-disabled persons 106 (0.67%), civil war-disabled persons 17 (0.11%), disabled workers 1,832 (11.61%), persons who have undergone categorization 3,739 (23.70%) and persons with assessed work capacity 8,998 (57.03%).

16. According to age structure of people with disabilities, there are 2,816 (17.85%) persons with disabilities aged up to 30 years, 6,728 (42.64%) aged 30 to 50 years, while there are 6,234 (39.51%) aged over 50 years. Compared to the same period in 2015, the number of young unemployed persons decreased by 5.2%.

17. When it comes to educational structure of disabled persons, there are 6,130 (38.85%) unqualified and low qualified persons with disabilities, 8,635 (54.73%) with secondary education, 511 (3.24%) with college or high three-year education, and 502 (3.18%) with at least high four-year education.

18. In 2016, 19.3% more persons with disabilities registered with the NES were employed comparing to the previous year, namely 5,860 persons with disabilities, of which 40.37% were women, and five times more than in 2009.

19. Employment of persons with the secondary school (III-VSSS) is predominant — 61.6% and it represents an increase of 19.9% compared to the same period in 2015. The largest number of persons (47.3%) employed were in the age group 30-49 years.

20. The largest number of registered employments persons with disabilities is in the manufacturing sector 18.9%, service industry 14.8%; wholesale and retail trade 12.0%, health and social care 10.8%, administrative and support services 8.2%.²

21. The Labor Law prohibits direct and indirect discrimination of persons seeking employment, as well as employees, among other things, due to their disability. The Law provides the protection of persons with disabilities in a way that the employer is obliged to provide the performance of work in accordance with the ability to work, in accordance with the Law.

22. In the case of absence for such work, the employer is allowed to cancel the contract to the employee-person with disabilities, on the basis of the excess, but is obliged to make severance payments obligation. The protection from the termination of employment contracts in the event of the excess of employees may be determined with the Collective agreement, and so that employed person with disability, who acquired the disability working for another employer, the employment cannot be terminated without his consent.

23. There are no legal obstacles for persons with disabilities to be members of the unions which are founded in accordance with the Law. Every union representativeness can be determined in accordance to the Law, for every union which meets the requirements stipulated by the law for representativeness.

Professional rehabilitation of persons with disabilities

24. In 2016, the assessment of the effects of implementation of the Law on professional rehabilitation and employment of persons with disabilities was made. During implementation of the Law, there was an increased involvement of people with disabilities in the active employment policy measures, their employment from the records of the National Employment Service was increased, and in total, the number of newly established companies for professional rehabilitation and employment of persons with disabilities as a special forms of employment was increased, training programs were developed and number of holders of a job professional rehabilitation of persons with disabilities was increased, special packages of measures for people with disabilities were developed starting from 2015.

25. Since 2015, a special **package of services for unemployed persons with disabilities** is being implemented by the NES, which includes mediation in employment and inclusion of persons with disabilities in active employment policy measures under the general conditions (in any case possible, according to the judgment of NES experts) and custom programs (in accordance with established individual employment plan and assessed work capacity).

Encouraging employment and support measures

26. Providing support in employment of persons with disabilities in the NES is reflected in promotion of employment of persons with disabilities in the open labor market, namely: by raising their work and learning efficiency by establishing mechanisms of preparation and support in the workplace, improving cooperation and raising awareness of employers and all partners involved in the professional rehabilitation and employment of persons with disabilities about the importance of hiring this category of unemployed persons.

² 1,889, of whom 794 are women (42.03%).

27. Working with employers, the NES informs and advises on current legislation in the field of labor and employment, programs aimed at promoting employment of persons with disabilities, as well as other issues related to employment of persons with disabilities.

28. Encouraging employment of persons with disabilities is done through granting subsidies for self-employment, subsidies to employers for new jobs openings, wage subsidies to persons with disabilities without work experience, subsidies for costs of conducting public works and other active employment policy measures aimed at encouraging employment of persons with disabilities. Support measures are provided in cases where persons with disabilities are employed under special conditions.

29. Refund of appropriate expenses of workplace adjustment implies approval of refund of appropriate expenses of workplace adjustment (technical and technological equipping of the workplace), equipment, premises, in accordance with the possibilities and needs of newly employed person with disability, to employer who permanently employed a person with disability who needs workplace adjustment. The refund is granted as a lump sum.

30. Refund of costs for wage of person engaged in the provision of professional support — working assistance — implies approval of refund of costs of wage for the person engaged in the provision of professional support to newly employed person with disability, to employer who permanently employed a person with disability who needs professional support in the workplace.

Realization of active employment policy measures

31. During the reporting period, 23.957 individual interviews with persons with disabilities were carried out in order to provide information and advisory support in active job search, assess the employability and determine the individual employment plan. After the completion of assessments of employability of people with disabilities, 17.224 individual employment plans were determined.

32. In the period from 01/04/2016-10/02/2017 a total of 7,520 unemployed persons with disabilities were included in active employment policy measures, in the following way:

Table 1

<i>Type of measures for active job search for people with disabilities</i>	<i>Number of unemployed persons with disabilities</i>	<i>Women</i>
Trainings for active job search	1 121	423
Self-efficacy training	110	54
Workshops to overcome stress due to job loss	31	11
Job search clubs	176	98
Job fairs	3 097	1 276
Trainings for entrepreneurship development	169	53
Total	4 704	1 915

Source: NES.

Table 2

<i>Type of additional education and training for persons with disabilities</i>	<i>Number of unemployed persons with disabilities</i>	<i>Women</i>
Internship	25	14
Acquisition of practical knowledge	5	1
Labour market trainings	413	226
Total	443	241

Source: NES.

Table 3

<i>Encouraging employment and support measures to persons with disabilities</i>	<i>Number of unemployed persons with disabilities</i>	<i>Women</i>
Subsidies for self-employment	91	33
Subsidies for employment of unemployed persons from the category of less employable persons	228	103
Wage subsidies for persons with disabilities without work experience	410	197
Refund of appropriate expenses of workplace adjustment	9	4
Refund of costs for wage for person engaged in the provision of support — work assistance	12	3
Total	750	340

Source: NES.

Table 4

<i>Public works</i>	<i>Number of unemployed persons with disabilities</i>	<i>Women</i>
Public works	1 623	734

Source: NES.

33. Compared to 2009, the number of unemployed persons with disabilities registered with the National Employment Service decreased from 22, 023 (7, 156 women) to 15, 778 (5, 804 women) in 2016. There is a high level of motivation of persons with disabilities, and the willingness to cooperate in the process of solving the unemployment problems, but also there is intensification of work of advisors in this area, contributed by a new concept in the personnel structure in 2015, namely separation of jobs of support and mediation in employment only for persons with disabilities, as well as systematization of the job counselor for employment in the branch offices.

34. An extraordinary interest of employers to participate in the program Subsidies for unemployed persons in the category of less employable persons (achieved realization of 210.91%), and the program Wage subsidy for persons with disabilities without work experience (achieved realization of 127.43%) was recorded in 2016.

35. Bearing in mind that one of the strategic objectives of the employment policy is increasing the coverage of persons and effectiveness of active employment policy programs and measures according to categories of employment seekers who have unfavorable status in the labor market, including persons with disabilities, further expansion of services for people with disabilities was supported also in the segment of trainings (acquisition of additional knowledge and skills), which together with other measures potentially and substantially increase the level of their social and labor involvement, and contribute to more competitive employment of this category of less employable persons.

36. A new **concept of advisory support to employers** was developed in 2016. During the reporting period, the information and advisory support to 1, 331 employers was provided by visits to employers and implementation of other forms of direct contact In order to implement the active employment policy programs and measures, which include

technical and financial assistance to employers and unemployed persons, on 07/02/2017 National Service announced 11 public calls/competitions.³

37. In accordance with the strategic documents, among other less employable persons, unemployed persons with disabilities will have priority in joining the active employment policy programs and measures, greater financial resources and better conditions for participation in specific programs. The plan is to include 7, 590 unemployed persons with disabilities in the active employment policy programs and measures in 2017, for implementation of which 550 million dinars was allocated from the Budget fund for professional rehabilitation and employment of persons with disabilities.

Companies for professional rehabilitation and employment of persons with disabilities

38. Companies for professional rehabilitation and employment of persons with disabilities established by the Republic of Serbia, or which operate with the majority of state capital, are therefore excluded from the implementation of the Law on the maximum number of employees in the public sector, thus enabling full implementation of the Law on professional rehabilitation and employment of persons with disability, in other words, the employment of persons with disabilities without restrictions.

39. At the initiative of the MLEVSA, the Regulation on the procedure for obtaining approval for new employment and additional work engagement in public funds beneficiaries was amended, so the application for obtaining approval shall not be submitted for employment of persons with disabilities, in accordance with the regulations governing the field of professional rehabilitation and employment of persons with disabilities, thus enabling employers to employ persons with disabilities in accordance with their needs, without prior approval of the Ministry of Finance.

40. In 2016, 8,219 persons with disabilities were included in the measures of professional rehabilitation, namely 68% more than in 2009. 489.13 million dinars were allocated for wage subsidies for persons with disabilities, and for the improvement of working conditions 140.30 million dinars.

41. From 2012-2016, the companies were allocated with about 307 million dinars for wage subsidies of employed experts and transport costs for experts and employed persons with disabilities.

42. **Currently, there is a total of 46 companies registered** for professional rehabilitation and employment of persons with disabilities with valid work permit, employing 1,750 persons, of which 1,177 are persons with disabilities.

The obligation of employing persons with disabilities

43. Monitoring the fulfillment of the obligation of employing persons with disabilities is under the jurisdiction of the Tax Administration and is being implemented on the basis of the submitted Reports on the fulfilment of the employment obligation by employers.

44. In 2016, the obligation of employing persons with disabilities was reported by an average of 6,932 employers (with the obligation of employment of 21,636 persons with disabilities).

45. During 2016, 3,182 controls of fulfillment of obligation of employing persons with disabilities were carried out, 532 decisions were issued with established obligation to pay an amount of 50% of the average salary in the Republic of Serbia according to the latest published data of the authority responsible for statistics in the total amount of 365,259, 150.57 dinars.

46. In January 2017, a revised Rulebook on the manner of monitoring of fulfilment of the obligation to employ persons with disabilities and the manner of evidencing the fulfilment of that obligation entered into force. Established changes should contribute to fuller implementation, monitoring, control and analysis of the fulfillment of the obligation to employ persons with disabilities.

³ <http://www.nsz.gov.rs/live/info/konkursi/konkurs-nsz>.

Assessment of work capacity and employment opportunities or maintenance of employment

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

48. According to the levels of assessment of work capacity, the following decisions were adopted: level 0-253 (5.07%), level 1-4, 250 (85.17%), level 2-186 (3.73%) and level 3-301 (6.03%).⁴

49. In order to improve the procedure of assessment of work capacity, NS conducted an analysis of the procedure of assessment of work capacity by branch offices in January 2016. The reconciliation of agreement between the competent institutions about signing the new Agreement on cooperation is in progress. After the reconciliation of all situations that have been established, the need to amend existing legislation will be assessed.

50. The state will continue to promote the employment of persons with disabilities in cooperation with associations and organizations of persons with disabilities, trade unions and other partners. Special attention will be focused on sectors and activities with greater financial capacity in order to employ persons with disabilities in these sectors.

51. We will continue to further improve cooperation through partnership of all stakeholders, as well as the exchange of experiences through learning the practical examples and new concepts of action in this area.

52. When performing the assessment of work capacity in the next period, the competent institutions will work to improve procedures of assessment of work capacity, including harmonization of approaches in conduct by the Commissions.

53. While drafting the Strategy and Action Plan for Improving the Situation of Persons with Disabilities by 2020, the Concluding observations and recommendations of the UN CRPD were taken into account, in relation to removal of obstacles that people with disabilities face in various forms of social life, particularly in areas that contribute to the equalization of opportunities, such as education, social protection, accessibility, healthcare, employment and others.

54. Tendencies of further improvement of the situation of persons with disabilities in the labor market in the coming period are aimed at the it full inclusion in economic and social life.

⁴ Capacity and employment opportunities or maintenance of employment were adopted, which represents 99,80% of the planned number.