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Performance of Western Balkan economies regarding the European Pillar of Social Rights

Updated review on Serbia

Mihail Arandarenko
March 2020



EUROPEAN CENTRE FOR SOCIAL WELFARE POLICY AND RESEARCH

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Executive summary

In most of the reviewed policies and principles that are enshrined in the European Pillar of Social Rights, Serbia performs poorly relative to the European Union standards. While in some areas this assessment is expected and in a certain way unavoidable, since Serbia is poorer than any one of the EU Member States, in some other fields that are less dependent on the level of national income, such as those closely related to social protection, equality and exercise of basic human rights, it is less justifiable. Serbia's shares of public revenue and public expenditure in GDP are quite close to the EU average, and consequently its performance with regard to social inclusion, social protection, income equality and poverty alleviation could be significantly improved by re-orientating its policy priorities and reshuffling the existing tax-benefit system.

In the field of equal opportunities and access to labour market, Serbia performs below average. Education is generally inclusive and of good quality, but some groups are left behind, especially children with Roma background and children with disabilities. The gender gap in the labour market is reflected in the first place in above-average gender employment gap, while the gender pay gap is still lower than average but has been growing in recent years. The equal opportunity principle enshrined in the Constitution is challenged daily in practice on the grounds of gender, age, disability status, sexual orientation, ethnic affiliation etc.; however public awareness campaigns and the establishment and activities of independent protection bodies have brought about some improvements in this field. Active support for employment is limited due to insufficient funds available, but also because of the insufficient orientation of active labour market policy to support the most vulnerable groups in the labour market.

The reduction of workers' rights has quite likely gone too far and now it is time for the correction and the strengthening of social dialogue. While amendments to the Labour Law in 2014 shifted the pendulum from 'secure' toward 'adaptable' employment, it is debatable if this has been an improvement or not. The Labour Law reform has not reduced the discrepancy in rights between the open-ended employment contracts and other forms of employment and work. Precarious work remains a serious problem. The newly adopted Law on Agency Employment might bring some positive changes, but it depends a lot on how it will be implemented in practice. The lowering of the rights of workers has also had its direct monetary effects that, coupled with the reduction of public sector wages within the Programme of Fiscal Consolidation, brought about a divergence of already very low levels of real and nominal wages from the EU average. Only very recently, pressured by the growing shortage of skilled labour and intensified emigration, the Government has started to support wage-led growth. However, its reliance on aggressive public sector and minimum wage hikes as two vehicles of wage growth might create new distortions and challenges. Social dialogue is underdeveloped, conflictual and not genuinely supported by the most powerful actor of industrial relations, the Government. Current tax-benefit system supporting work-life balance appears to be quite unbalanced, with the generous rules regarding maternity and parental leave, but without any tax credit for dependent family members. Overall, while recent reforms have favoured employers rather than employees, the exogenous

improvement in the labour market situation and increasing emigration of the labour force suggests that the balance of power is gradually shifting toward workers.

The field of social protection and social inclusion is the most problematic of all. The situation is critical in most areas. Support to children and families with children is quite austere and sometimes unjust, as well as ineffective in lifting almost a third of all children above the risk of poverty. Access to social protection for workers outside of employment contracts is very limited, while the coverage rate of unemployment benefits is well below 10%. While there is some progress in the employment integration of persons with disabilities, those adults and children who are institutionalised and in long-term care have not seen much improvement of their situation. The only true minimum income programme, financial social assistance, has good targeting but the amounts are too small and coverage incomplete to have a more pronounced impact on poverty reduction. Poor people in rural areas are often denied financial social assistance due to rigid asset testing rules. The pension system generates extensive intergenerational and within-generational inequalities and is highly regressive in its character, implying transfers from future generations of pensioners to current ones, as well as large transfers from non-participants to participants in the pension insurance scheme. These inequities should be remedied by the introduction of universal pensions financed by general government revenues that are at the moment used to top-up current pay-as-you-go pensions.

To sum up, the social protection system, while in some areas supporting inclusion, reducing poverty and enhancing equality, in other areas fails to do so and sometimes reinforces inequality and exclusion. This appears to be the most pressing problem facing the challenging field of social rights in Serbia. Closely connected to it is the issue of labour and employment rights and the failure of narrowly understood employment and social policy to address precarity and informality in the labour market. Measures that have the potential to incentivise employment creation and formalisation of informal jobs, such as significant reduction of very high social insurance contribution rates, which would be welcomed by both employees and employers, have been applied only in homeopathic doses by policymakers in recent years, despite the growing fiscal space. A critical rethinking of the ways and means to achieve a more integrated labour market and more inclusive society within a broad dialogue involving social partners, the academic community and civil society is urgently needed. This dialogue should be inspired and guided, in light of the European perspective of Serbia, by the principles enshrined in the European Pillar of Social Rights.

1 Introduction

Social policy and social rights in Serbia have long been considered as a minor area of interest within a big picture of the process of European integration and overall socio-economic progress of the economy. To be sure, civil society and human rights organisations as well as international humanitarian and development agencies have always been very active in the field. They have been instrumental and indeed indispensable in providing relief and at the same time they have been vocal in exposing the hardship of the deprived groups and the ineffectiveness and inadequacy of social welfare policies. The prevailing opinion of policymakers and most influential experts in the field, however, expressed early in the landmark Poverty Reduction Strategy from 2003, was that market reforms are the key for any sustainable improvement in the employment of the population, social policy and social rights, poverty reduction and social inclusion. In other words, they believed that the trickle-down effect will eventually bring the lasting improvement for both the 'old poor' and new 'transition losers'. This view was challenged and shaken by the impact of economic crisis of 2008 on the Serbian economy, and, perhaps even more decisively, by the publication of results of the Survey on Income and Living Conditions (SILC) for Serbia starting from 2013.

SILC has for the first time fully revealed, through a wide set of objective and comparable indicators, the failure of social policy (and more comprehensively and technically said, the entire tax-benefit policy) to contain poverty, income inequality and social exclusion. After five years of implementation and a major recent revision initiated by those who doubted (see for example UNDP, 2018) its comparability and relevance, these are some well-established stylised facts from SILC, reaffirmed by this recent revision. At-risk of poverty rate stands around 24%, among the highest in Europe. Children and young people below 25 years of age face an at-risk of poverty rate of 30%. Those in the top income quintile have disposable income which is on average almost nine times higher than that in the lowest quintile, while a synthetic measure of inequality of disposable income, the Gini coefficient, has been somewhat reduced due to equalising effects of fiscal consolidation (it was 35.6 in 2018), but it remains among the highest in Europe. The Gini coefficient is so high not primarily because of high market inequality (before taxes and benefits), but because the tax-benefit system is not as efficient as elsewhere in Europe in reducing market inequality. In Serbia, high government expenditure does not reduce income inequality much. Pensions, for example, although they comprise some 12% of GDP, among the highest shares in Europe, reduce inequality by 11 Gini points, far less than the EU average of 17 points (Arandarenko et al., 2017).

The social situation in Serbia is monitored by a wide array of governmental and non-governmental actors. Among the governmental actors, these are in the first place Serbia's Statistical Office (SORS) as the main producer of primary data from various household surveys and from national accounts, and the Ministry of Labour, Employment, Veterans and Social Affairs (MLEVS), as the main producer of primary administrative data, some of which are also available

from the social insurance funds and the National Employment Service (NES). The Institute of Public Health 'Batut' produces detailed statistics related to public health and demographic trends. The semi-governmental Social Inclusion and Poverty Reduction Unit (SIPRU), an externally financed project currently attached to the Prime Minister's Office, collects information and coordinates projects in various fields within its remit. SIPRU is especially active in processing and interpreting data on poverty and inequality as well as developing indicators for monitoring of the social situation. Independent official bodies, including the Ombudsman, the Commissioner for the Protection of Equality and the Commissioner for the Information of Public Importance and Personal Data Protection, also represent valuable sources of information in their respective fields of activity.

Non-governmental actors range from mostly scientific- and policy-oriented think-tanks to activist grassroots organisations. The Belgrade Centre for Human Rights is dedicated to analysing the general state of human rights, including producing detailed annual legal assessments of the state of human rights in the areas of work, employment and social policy. The Foundation Centre for Democracy monitors legal and economic aspects of labour and employment policy. Another think tank, the Centre for Social Policy is active in the analysis of social policies and data at the national and local level. The Foundation for the Advancement of Economics follows and interprets employment and social policy trends, makes use of an own microsimulation tax-benefit model for scientific and policy purposes, and in cooperation with another think-tank in the field, Secons, produces analytical quarterly monitoring of the social situation, MONS.

2 Serbia's performance in the 20 principles of the European Pillar of Social Rights

2.1 Chapter I: Equal opportunities and access to the labour market

2.1.1 Education, training and life-long learning

Serbia constitutionally guarantees the right to education to everyone (Article 71). According to the Constitution, primary education is mandatory and free, whereas secondary education is free, but not mandatory. All citizens are guaranteed access to higher education under equal conditions. Constitution declares that successful and talented students from less affluent backgrounds have guaranteed free tertiary education in accordance with the law. Establishment of schools and universities is regulated by the law.

Serbian Labour Force Survey data show a surprisingly low share of early school leavers of 6.8% in both 2018 and 2019. This ratio is calculated as the share of persons aged 18-24 whose highest level of completed education is primary education and who do not attend education or training in the total population of that age. The 6.8% of early school leavers is the same for males and females. This percentage is about 4 percentage points lower than the EU average; however, it should be borne in mind that administrative data on secondary school enrolment suggest the higher share of early school leavers. Besides, primary education in Serbia lasts only eight years, while in most EU Member States it lasts 9 or 10 years. A useful discussion on subtleties of terminology and underlying subpopulations covered is provided by Krstic et al (2017).

The share of population without completed secondary education can be estimated at around 16%. We have derived this proxy from recent annual statistical information on current corresponding generation's secondary school completion rate (deducting completion rate of about 84% from 100%). While this rate appears to be high, it is not necessarily a consequence of particular underperformance of the education system, but a result of the fact that, unlike in most EU Member States, secondary education in Serbia is not mandatory.

The Strategy for Education Development until 2020 (SEDS, 2012) sets the goals to be achieved by 2020 that are consistent with our estimate. To increase the coverage, relevance and effectiveness of education, strategic objectives to be achieved by 2020 are set as follows: primary school should be completed by 93% of children; at least 95% of those who completed the primary school (88% of the total population of that age) will enrol at some of the secondary schools; and secondary schools are completed by 95% of enrolled children. In 2019, the process of development of new Strategy for Education and Science Development for the period from 2020 to 2027 has started and it is expected that the new Strategy will be adopted later this year. It is also expected that it will reiterate the goal to make the secondary education mandatory early in the period of its implementation.

Female students are less likely to be dropouts than male students. The secondary school completion rate in 2014 at the national level was 83.6% and it was significantly higher for girls than for boys (86.9% and 80.5%, respectively). In 2016, the percentage of dropouts from primary and secondary schools was also lower for the female (6.7%) than for the male population (7.3%).

Children from ethnic minority backgrounds have access to education in own language. According to the last available data from the Ministry of Education, in 2018/19 school year, more than 3 000 pupils attended primary education in their ethnic languages. The minority languages covered include Hungarian (39%), Bosnian (37%), Albanian (13%), Slovak (7%), Ruthenian (2%), Romanian (2%), Croatian and Bulgarian. Additionally, there were optional language and culture courses offered to minority pupils in Macedonian, Ukrainian, Czech and Roma languages, and in Vlach and Bunjevac speeches. In secondary education, attendance in the language of the national minority was over 11 000 – Hungarian (46%), Albanian (24%), Bosnian (19%), Slovak and Ruthenian (3% each), Romanian, Croatian and Bulgarian.

Roma children and youth have far lower enrolment and completion rates compared to other students. Roma remain underrepresented at all levels of education, and the most drastic example is higher education, with only around 200 Roma students attending until recently, which makes below 0.1% of total student population, while the share of Roma within the total population of corresponding cohorts is at least 3%. According to the latest available data, there were 464 Roma students at the universities in 2018/19 school year, which is a significant improvement compared to earlier years, but still a meagre 0.18% of the total student population.

Serbia is only halfway through to achieving the goal of SEDS to have the participation rate in adult education of 7% by 2020. The most recent data from 2018 and preliminary data from 2019 show the declining trend in participation in adult education of 4.1% in both 2018 and 2019, down from 5.1% in 2016 and 4.4% in 2017.

Roma make around half of all participants in adult literacy and vocational programmes. These programmes, initially called 'The Second Chance' were established cooperatively by the National Employment Service (NES) and the Ministry of Education with the goal to provide the functional elementary education for adults within a three-year cycle. The total enrolment in the programme in 2017/2018 was around 1 300 persons.

Despite the problems, the educational level of the population is growing relatively rapidly, primarily due to the far lower educational achievements of the older population exposed to demographic shrinkage. Thanks to greater educational system coverage and the large differences in average educational level between young and older cohorts, the educational level is rising rather fast. In 2015, about 71% of people over 25 years of age have completed at least upper secondary education – 77% of men and 65% of women. At this level, Serbia still ranks below the new EU Member States on average (81.7%) but is catching up with them (CEVES, 2018). The tertiary educational attainment rate in the 30-34 age group stood at 29.9% in 2016, almost 10 percentage points lower than in the EU where it stood at 39.1%. According to SORS data, in the 2017/18 school year, a total of 1.25 million persons participated in any of the education levels, whereof preschool education comprised 17%, primary education comprised 43%, secondary 20% and tertiary 20%.

Overall, the education system's performance is satisfactory. The newly developed (2018) and somewhat controversial World Bank Human Capital Index (HCI) puts the Serbian human capital potential at 27th place out of 157 economies, higher than the average for its region and income group. This result was achieved despite the fact that general government expenditure on education was 4% of GDP in 2015 compared to the 4.8% in the EU in the same year. According to HCI, a child born today in Serbia will reach 76% of his or her full potential at the age of 18. On the other hand, results of PISA survey based on OECD methodology typically place Serbia well below the EU Member State average, with scores similar or somewhat higher compared to its South Eastern European peers. In 2018, Serbia was ranked 45th out of 79 participant economies. Its scores in reading (439), mathematics (448) and science (440) were well below the OECD averages of 487, 489 and 489, respectively.

2.1.2 Gender equality

The Serbian Constitution prohibits gender discrimination. Gender equality and development of equal opportunities policies are among the seventeen principles enshrined in the Serbian Constitution. Article 21(3) of Serbian Constitution contains the general anti-discrimination clause, prohibiting any direct or indirect discrimination on any grounds, including gender. Article 15 of the Constitution guarantees gender equality and states: 'The State shall guarantee the equality of women and men and develop equal opportunities policy'. Article 62 of the Constitution also guarantees the equality of spouses, and stipulates that 'Conclusion, duration or dissolution of marriage shall be based on the equality of man and woman'. Serbia is signatory to the UN Convention Concerning Equal Remuneration of Men and Women for Work of Equal Value, the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the UN Convention on the Political Rights of Women.

Principles of gender equality have been operationalised in all national laws, by-laws and strategies and the gender equality institutional infrastructure is well developed. The Gender Equality Coordination Body operates within the Serbian Government and is headed by the Deputy Prime Minister. It was established to guide the work of public administrative authorities and other institutions with a view to promoting the status of women and men in Serbia. The 2016–2020 Gender Equality Strategy has recognised slow progress of earlier measures aimed at boosting women's employment, entrepreneurship and economic empowerment, as well as those aiming to improve the status of groups facing discrimination on multiple grounds. The Domestic Violence Act entered into force in 2017 and the "National Action Plan for the Implementation of UN Security Council Resolution on Women, Peace and Security in the Republic of Serbia until 2020" was adopted. The obligation to introduce gender responsive budgeting (GRB) was introduced for the first time in late 2016 and is to be fulfilled by authorities at all levels by 2020 at the latest. According to a recent assessment (UN Women, 2019), in 2018 35 institutions at national and 18 at provincial level applied GRB in their budgets for 2019 through 76 programmes and 141 gender sensitive budget objectives, while according to the annual Plan for GRB introduction in 2020 budget 47 institutions at national and 26 at provincial level are to apply GRB in their budgets for 2020. The Anti-Discrimination and Gender Equality Promotion Unit was set up within the MLEVS

in May 2017. The National Assembly of Serbia has a standing Committee on Human and Minority Rights and Gender Equality. Local self-governments have also established their gender equality mechanisms. Gender equality is also within the remit of two independent regulatory authorities, the Protector of Citizens (Ombudsman) and the Equality Protection Commissioner (Human Rights Report, 2017). A new gender equality law, drafted for four years, has not yet been passed by the Parliament as of the time of this writing (March 2020) and the 2009 Gender Equality Law remains in effect. The stalemate regarding the adoption of the new law stems from the disagreements between the Deputy Prime Minister in charge of gender equality and the MLEVS, with the latter being less enthusiastic to introduce quotas for the less represented gender, among other issues.

Aggregate labour force indicators, most notably employment and activity rates, are significantly better for men than for women. Women in Serbia have a significantly lower employment rate than men. According to the Labour Force Survey (LFS), in 2019, the gender employment gap in Serbia was higher than the EU-28 average (14.7% compared to 11.7%). According to the same source the gender employment gap in 2018 rose to 14.7% (compared to the EU-28 average of 11.6% in the same year). The gender employment gap remains stable over a seven-year period— it was 14.8% in 2013, and 14.4% in 2016. The high employment gap is mainly due to the low activity of women in the labour market. This is, among other factors, a consequence of the lower statutory retirement age for women as well as due to poor incentives for part-time work, affecting work-life balance which is typically more important for women. Part-time work makes up almost one third of women's employment in the EU-28 on average, while in Serbia this share was only 13.2% in 2019.

The principle of equal pay for equal work or work of equal value has been operationalised in national legislation. In Article 104 the Labour Law stipulates that employees are guaranteed equal earnings for the same work or work of equal value performed with an employer. The work of the same value is defined as work requiring the same professional qualification level, the same work abilities, responsibility and physical and intellectual effort. Also, anti-discrimination legislation protects the principle of equal pay. Thus, Article 16 of the Law on the Prohibition of Discrimination prohibits discrimination in the sphere of employment, and violation of the principle of equal opportunity in gaining employment or equal conditions for enjoying all rights pertaining to the sphere of employment, including equal pay for work of equal value. More explicitly, the Gender Equality Act in Article 17 guarantees the right to equal remuneration for the same work or work of equal value with the same employer, in accordance with the Labour Law, for all employees regardless of their sex (Krstic, 2018).

The gender pay gap is relatively low in European comparisons and in unadjusted form it was 8.7% in 2014 (SORS, 2017). However, two studies from the early 2010s calculating adjusted wage gap indicate the higher values for adjusted than for unadjusted pay gap, due to better educational attainment of employed women. Avlijaš et al (2013) use hourly wages from 2011 LFS and estimate the unadjusted and adjusted wage gap in Serbia at 4.0% and 8.5%, respectively. Similarly, Žarković-Rakić and Vladislavljević (2016) use hourly wages from the 2013 SILC, and estimate an unadjusted wage gap of 4.5%, and the adjusted at 13.8%. Data from SORS (2017) also confirm that the adjusted gender pay gap is significantly higher than the unadjusted pay gap. More recent research based on LFS (Žarković-Rakić et al. 2018) and SILC data (Anić, 2019) show that

unadjusted gap is increasing and is hovering around 10%, while adjusted gender pay gap remains even higher, reflecting better overall characteristics of employed women over employed men.

The World Economic Forum ranked Serbia 39th on the list of 144 economies in its 2019 Global Gender Gap Report. After a jump from 48th place in 2016 to 40th in 2017, Serbia stabilised its position around the 40th place. In recent years Serbia made slight headway on the Health and Survival, Educational Attainment and Political Empowerment sub-indexes, but not on the Economic Participation and Opportunity sub-index.

The Gender Equality Index for Serbia indicates improvement of gender equality in the period 2014–2016, given that the index value in this period increased by 3.4 points. Compared to the EU-28 average, Serbia made a major shift between the two reporting periods. Namely, the value of the indices in Serbia for the period 2014–2016 increased by 3.4 points, while in the European Union during the period 2012–2015 it increased by 1.2 points. Regarding the total index value, Serbia was ranked 22nd in relation to the Member States. This increase is largely the result of an increase in the index value in the domain of power, but also a moderate or slight increase in the index values in the domains of labour, money, knowledge and health.

Implementation of constitutionally and legally enshrined equality of men and women in the workplace faces many practical obstacles. There are many difficulties in relation to the application of the principle of equal pay for equal work and work of equal value, as well as in relation to access to work, vocational training, employment, working conditions, etc. Some of these difficulties stem from the deeply rooted gender stereotypes on traditional roles for women and men, and others from the retention of these stereotypes within the legislation. Many women are routinely asked about their family plans in job interviews, and many of them on non-permanent employment contracts are faced with limited access to work and with termination of their contract after returning from parental leave. Also, the law does not promote the participation of fathers in parental leave.

2.1.3 Equal opportunities

Prohibition of discrimination is constitutionally guaranteed (Article 21). Gender equality and development of the equal opportunities policies are among the seventeen principles enshrined in the Serbian Constitution. The prohibition of discrimination extends to the right to equal legal protection, and is addressed at direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability. The Constitution envisages special measures which may be introduced to achieve full equality of individuals or groups of individuals in a substantially unequal position compared to other citizens, and such measures are not to be deemed discrimination. Persons belonging to national minorities are constitutionally guaranteed individual and collective rights in addition to their general citizen rights.

The Commissioner for the Protection of Equality (CPE) is an independent, autonomous authority for prevention of all forms and types of discrimination. This institution was introduced in 2010. The Commissioner for the Protection of Equality is authorised by law to carry out the procedure

based on complaints in cases of discrimination against persons or groups of persons connected by the same personal characteristic. The Commissioner receives and considers complaints of discrimination, issues opinions and recommendations in concrete discrimination cases, and stipulates measures defined by the Law on Prohibition of Discrimination. All proceedings before the Commissioner are free of charge and tax free.

Persons with disability face discrimination most frequently, mostly due to limited access to their constitutional and legal rights. Based on submitted complaints in 2018, 2017 and previous years, it can be concluded that discrimination is most often present in case of persons with disabilities. In 2018, there were 265 complaints to CPE related to the discrimination of persons with disabilities, comprising 26.4% of total complaints submitted during that year. The main challenges in improving the position of persons with disabilities are: accessibility to facilities, public areas, services and information, employment, reasonable adjustment of workplaces and jobs, access to education and professional training, the number and scope of services of health care and social welfare, inability of independent decision-making and other challenges, particularly multiple discrimination against persons with disabilities that is most often combined with personal characteristics such as gender, health, age, national affiliation and similar.

Discrimination on the grounds of age is also present to a great extent, affecting in the first place children with disabilities as well as citizens over 50 years of age. According to the number of complaints on the grounds of age, this type belongs to the second most frequent group of complaints in recent years. In 2018, there were 166 complaints to CPE in this domain, comprising 16.5% of the total number of complaints. The disadvantaged position of children (mostly of children with disabilities or difficulties in development) has been noted in the first place in the field of education. On the other hand, the position of citizens aged 50–65, as well as of those over 65 years of age, is found to be disadvantaged mostly in the field of employment. In 2018, complaints that were related to the discrimination of children comprised 73.5% of all complaints on the grounds of age, 18.7% of complaints addressed the discrimination of persons aged 18-65, while 7.8% of complaints addressed the discrimination of persons over 65.

Gender-based discrimination, mostly reported by women, appears to be on decline in recent years and is mainly related to the issues of employment. The number of complaints submitted to CPE in which gender has been stated as the grounds for discrimination, has for years made up the largest percentage of the total number of complaints and has recently declined to the third position. Regarding areas of discrimination, employment is still the most dominant area in which complaints are filed on these grounds. Complaints by women mostly address cases in which their gender and family status prevented them from progress at work, or, after they returned from the maternity leave or after being absent from work due to child care, they were fired or re-assigned to other workplaces that were, as a rule, of a lower rank and with a smaller salary. In 2018, the total number of cases reported to CPE and related to gender discrimination increased to 101 from only 58 in 2017, with the share of 10.7% of total complaints. It is interesting to note that the number of discrimination cases reported by men has reached 40%.

Discrimination on the grounds of health most often occurs in the form of multiple discrimination. Reports by international organisations and human rights organisations point to the need to improve the situation in this area, particularly when it comes to combating

stigmatisation of people living with HIV/AIDS, including in the employment area. In general, discrimination on the grounds of health most often occurs in multiple discrimination, mainly with age, disability or gender. In 2018, there were 61 complaints to CPE on the grounds of health, comprising 6.1% of total complaints.

Discrimination on the grounds of national affiliation or ethnic origin most often occurs with regard to the Roma population. Every second complaint alleging discrimination on the grounds of national affiliation refers to discrimination against Roma men and women. The “Action Plan for Exercising the Rights of National Minorities” and “Action Plan for Implementation of the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia” were adopted in 2017. In January 2019, the Coordination Body monitoring the implementation of the Roma Strategy discussed the implementation of measures aimed at permanently addressing Roma housing problems and improving infrastructure in Roma settlements and regional standards on responsible budgeting of Roma inclusion policies. In 2018, there were 59 complaints to CPE, or 6% of the total number of complaints. Out of that number, 28 (47.5%) complaints addressed the discrimination of Roma minority members.

European Commission and UN bodies continue to call for faster progress in social inclusion of Roma. In its Serbia 2019 Report, the European Commission (2019) noted the need to reinforce coordination between the national and local authorities and budgeting at the local level and that job descriptions for local Roma coordinators, pedagogical assistants and health mediators should be uniform throughout Serbia and institutionalised. Although most Roma in Serbia have civil documentation, the European Commission said that the procedure for registering the birth of children whose parents lacked personal documents needed to be monitored and that the relevant by-laws needed to be amended. It also alerted to the fact that only 12.7% of Roma children have received all recommended vaccines and that almost 60% of Roma girls were married at an early age. The UN Committee on the Elimination of Discrimination against Women commended the significant progress made by Serbia in the reduction of the risk of statelessness among Roma population, from 30,000 persons at risk in 2004 to 2 200 in 2018 and welcomed the adoption of new legislation simplifying birth registration and registration of residence. However, the Committee was concerned that some 2 200 persons remained at risk of statelessness, in particular Roma who are internally displaced, registered in Kosovo* and residing in Serbia, with approximately 300 to 400 persons lacking birth registration.

It also expressed concern at the lack of access to birth registration for children whose parents, or at least whose mothers, lack birth registration or identity documents, mainly among Roma and urged Serbia to facilitate birth registration of children whose parents lack personal documents.

Discrimination related to sexual orientation is coupled with high levels of stigmatisation and self-stigmatisation. CPE reports note that the largest number of complaints in the field of sexual orientation (42 or 4.2% in 2018) were submitted due to discrimination against Lesbian, Gay, Bisexual und Trans (LGBT) persons in the area of public information and the media, and in most cases, complainants were civil society organisations (CSOs) rather than LGBT persons. The role of CSOs remains indispensable in providing a collective voice in the protection of the rights of members of the LGBT population.

Despite some progress in legal regulation, there is a long road ahead to full equality for LGBT persons. Since 2014, Gay Pride parades are regularly held in Belgrade without any significant accidents. In 2019, Belgrade was elected the EuroPride host in 2022 after it won the votes of 71% of delegates at the European Pride Organisers Association (EPOA) conference in Bilbao, Spain. Expectations are that the event will be attended by a large number of participants from Serbia and abroad. According to the report of Belgrade Centre for Human Rights (2019), equality of sexual minorities was not fully achieved in practice despite the satisfactory normative framework prohibiting discriminatory treatment of persons of a different sexual orientation. Serbia ranked 30th on the ILGA-Europe Rainbow Map (2019)¹ as regards respect for the human rights and full equality of the LGBTI population. The first judgment for a hate crime, incriminated in Article 54a of the Criminal Code (introduced in 2012), was delivered by a Serbian court in 2018. The Belgrade First Basic Court considered hate crime an aggravating circumstance in a domestic violence case, which ended with the conviction of the defendant under Article 194(1) of the Criminal Code for abusing his wife and his gay son. The Act Amending the Civil Registers Act and the new Rulebook on Sex Change Certificates and Their Issuance by Health Institutions entered into force on 1 January 2019. Neither the rights of transgender persons nor the rights of same-sex partners are regulated at all by Serbian law.

2.1.4 Active support to employment

The Law on Employment and Insurance against Unemployment Insurance provides a flexible legislative framework for the implementation of active labour market policies and governs the work of the National Employment Service (NES). The National Employment Strategy 2011–2020 provides the long-term framework for designing employment policies and is operationalised by the adoption and implementation of annual National Employment Action Plans (NEAPs). The Strategy defines four strategic directions and priorities of employment policy for a reference period in accordance with the identified main labour market policy challenges which Serbia faces (demographic challenge, labour migration, disparities in the regional development, educational challenges, institutional challenges and duality in the labour market). These objectives are all concerned with achieving greater equality of access and outcomes in the labour market: stimulating employment in less developed regions and development of regional and local employment policy; enhancing the quality of human capital and greater social inclusion; development of institutional capacity and expansion of active labour market policies; and reducing labour market duality.

However, **one of the key quantitative goals envisaged by the National Employment Strategy, to increase expenditures on active labour market programmes to 0.4% by 2015 (and to 0.5% by 2020), has not been achieved at all, nor has there been any significant progress in that regard.** Instead, over the whole period of 2011-2018 the proportion of funds for active labour market policy (ALMP) measures remained around 0.1% of GDP. This has, of course, severely limited the

¹ https://ilga-europe.org/sites/default/files/Attachments/rainbowmap2019online_0_0.pdf

potential and actual impact of active labour market policy on labour market outcomes, especially for vulnerable groups expected to benefit the most from the increase in spending on ALMP.

Due to underfunding, the coverage of unemployed by the ALMP measures is very limited. For years, active labour market policy measures have been heavily underfunded. Their coverage is consequently very modest – out of some 583,000 registered unemployed on average in 2018, around 25 000 have been included in substantial active labour market measures: training, employment and self-employment subsidies and public works. This is still an improvement over 2017, when out of 650,000 unemployed, less than 20 000 were included in active labour market measures. However, most PES services are also classified as active measures under national classification of active job search measures. For example, in 2018 some 120,000 unemployed were covered with these services, the bulk of which relates to one-day services such as training for job search and employment fairs. However useful they be, the impact of participation in these services on job prospects of the unemployed is negligible.

As of 2013, the NEAPs have provided a package of services for youth, within an underfunded programme mimicking a youth guarantee. This package includes the provision that, within the first three months of registered unemployment, an employability assessment is carried out and an individual employment plan is drafted, including identifying the programme which would be most beneficial to promoting the young person's employability and preventing skills erosion. In theory, each young client should be offered employment or participation in an ALMP. However, as explained, one-day activities such as employment fairs or a course in writing Curriculum Vitae are also counted as participation in ALMP.

Effective response to high youth unemployment is hindered by serious structural problems in policy design and implementation. The percentage of youth not in education, employment, or training (NEET) in Serbia in 2019 was 15.3% (15.8% for women and 14.8% for men). There is a declining trend from 16.5% in 2018, 17.2% in 2017, 17.7% in 2016 and 19.5% in 2015. Although decreasing, in 2018 this indicator was still significantly higher than in the EU-28 (10.5%). The youth inactivity rate remains very high at 70.0% in 2018 and it is greater by 0.6% compared to 2017.

At the broader level of policy design, several key issues have been identified which hinder effective policy responses to the challenge of youth unemployment. They include the fragmentation of policy interventions, with few synergies across the various government agencies and actors; the scant attention paid to addressing the needs of young people who face multiple barriers to labour market entry; the narrow scope of youth employment interventions, which often focus either on labour demand or labour supply measures; the lack of coordination among the institutions entrusted with providing social inclusion services; and limited monitoring and evaluation, which does not permit the implementation of evidence-based policies or the precise targeting of public services on those most in need of assistance.

Overall, ALMP measures do not target sufficiently well the members of the most vulnerable groups. A further problematic finding is that the targeting of active measures is not really focussed on members of vulnerable groups, with the partial exception of persons with disabilities. Furthermore, if a broader vulnerable group, such as youth, is targeted, often the main

beneficiaries of the intervention are not the most vulnerable among them (Marjanovic, 2016). The most striking example are training measures. Among them, the Professional Practice Programme, targeting persons with at least secondary degree, covers on average some 5 000 persons. On the other hand, Acquisition of Practical Skills Programme, which until 2017 covered only persons without qualification, has been divided into two programmes – first aimed at redundant workers and long-term unemployed (LTU) with qualification, covering some 700 unemployed, and second aimed at unskilled workers, with total coverage of only around 200 unemployed. Thus, the two training programmes covering deeply vulnerable groups (LTU or persons without qualifications) have the combined coverage of less than 1 000 persons.

A general recommendation for ALMP in Serbia is that they should be more oriented towards deeply vulnerable groups, since they are at the brink of labour market exclusion. These groups are naturally more exposed to long-term unemployment as well, which is especially the case for persons with disabilities, older workers (especially those who lost their jobs because of privatisation and restructuring), Roma, refugees and internally displaced persons, persons without education, and rural dwellers in underdeveloped regions. The targeting of vulnerable groups needs to be significantly improved and sharpened. Existing programmes need to be adjusted in terms of procedures, size and targeting and new ones need to be introduced to respond to the changing overall labour market situation and the changing absolute and relative position of vulnerable groups. This should include development of new programmes exclusively or dominantly targeting the most disadvantaged groups and/or groups whose relative position has worsened the most.

2.2 Chapter II: Fair working conditions

2.2.1 Secure and adaptable employment

Amendments to Labour Law in 2014 shifted the pendulum from ‘secure’ toward ‘adaptable’ employment. As a prelude to the programme of fiscal consolidation and as a token of goodwill toward foreign investors and international organisations calling for the deregulation of the labour market to increase the competitiveness of the Serbian economy, far-reaching amendments to the Labour Law were passed in July 2014. These amendments have reduced many monetary and non-monetary rights of employees.

Amendments to the Labour Law have enhanced flexibility for employers to adapt swiftly to changes in the economic environment. Some of the relaxed regulations are as follows. The employer can terminate the employment contract within a period of six months upon becoming aware of the facts constituting the grounds for termination (so far it was three months), and within a period of one year following the occurrence of the facts constituting the grounds for termination (so far it was six months). New regulations mandate all employers with more than 10 employees to adopt the Rulebook regulating job organisation and job descriptions, while before the amendments this obligation existed for all employers with more than 5 employees. The reasons for termination of an employment contract are systematised in a new way and are provided with specific examples of violation of duty and violations of labour discipline. Certain categories of employees, most notably trade union and employee representatives, were previously protected from termination. Now the employer can cancel the employment contract with them, except due to their activities as employee representatives. Instead of 90 days, a new deadline to initiate a case before court by an employee against a ruling that he violated the right is 60 days from the date of delivery.

Employment and job security for workers depends on the type of the contract concluded with an employer. The Labour Law stipulates two types of employment contracts—open-ended (permanent) contracts and fixed-term contracts. In addition to these two forms of employment, the Law stipulates four types of contracts between an employer and a worker that could be entered without concluding an employment contract. These are the following: service contract, temporary work contract, apprenticeship contract and outside work contract. All these non-employment contracts are used in practice in far broader range of situations than stipulated by law. Employee rights are significantly reduced in the latter type of work contracts. Furthermore, the transition to open-ended employment contracts from non-employment contracts is not facilitated by the law and in practice occurs quite rarely.

Fixed-term contracts can last up to two years, possibly more to coincide with the completion of a project. As of 2014, fixed-term employment can take up to 24 months, within one or more subsequent fixed-term contracts, compared to the maximum of 12 months according to previous rules. Exceptionally, fixed-term contract may be concluded for a longer period for work on a project whose time is predetermined, no longer than until the end of the project. In practice,

however, it often happens that after the expiration of the period of 24 months of work, the employer offers to the employee a new fixed-term contract with a slightly changed job description. Labour Law stipulates that in such a case the employee acquires the right to get an open-ended contract. However, the only way for the employee to exercise that right is to go through court proceedings, since the labour inspectorate does not have power to conclude that the conditions for the establishment of an employment relationship have been created for an indefinite period of time.

Minor newer revisions have been introduced to enhance the protection of workers and the new Labour Law is expected by the end of 2021. In the meantime, there have been several minor revisions of Labour Law. In 2017, employers were obliged to abide by the shortened deadline for submitting social security registration forms on behalf of their new employees. In addition, they were obliged to keep daily records on overtime work under the threat of penalty. The adoption of new Labour Law is planned by the MLEVS for the end of 2021, however there is some scepticism regarding how realistic this plan is, since the process has not yet effectively started as of early 2020.

Labour force indicators have significantly improved in recent years, but there is little proof that this is due to Labour Law changes, despite the claims for the opposite. The employment rate for the population aged 20-64 was 56% in 2015, 59.1% in 2016, 61.4% in 2017 and 63.1% in 2018. The employment rate for the male population aged 20-64 in 2018 was 70.5%, which is an increase of 2.0% from 2017. The employment rate in the same category for the female population was lower and stood at 54.4% in 2017 and at 55.5% in 2018. In the age group 15-24, this rate was 19.7% in 2016, 20.9% in 2017 and 21.1% in 2018. The youth unemployment rate was on continuous decline in the last four years and stood at 43.2% in 2015, 34.9% in 2016, 31.9% in 2017 and 29.7% in 2018. In this age group (15-24) the unemployment rate is higher for female population, standing at 32.0%, than for males (28.3%) while both gender groups experience overall declining trend since 2015. Long-term unemployment was 7.2% in 2018, compared to 7.8% in 2017, 9.8% in 2016 and 11.3% in 2015. This rate is still significantly higher than in the EU where in 2018 it was 3.0%. The Government officials as well as international organisations have ascribed in their documents these positive changes to the fiscal consolidation and improved business climate due to changes in the Labour Law and consequent increased confidence of investors and rating agencies. However, these positive labour market trends could be also seen as a part of longer autonomous labour market recovery process of the 'regression to the mean' that started as far back as 2012 (Arandarenko and Aleksic, 2016). More recently, the reduction of working age population due both to the retirement of large cohorts of boomers and to the increased emigration especially of younger workers have contributed to the especially strong improvement in labour market indicators.

The Law on Agency Employment was passed by the National Assembly in December 2019. It is aimed at preventing employment relationships that lead to precarious working conditions within atypical contracts, while at the same time preserving employer flexibility and adaptability to changing business circumstances. The law establishes a three-way legal relationship between an employee, a temporary employment agency (the "Agency") and a beneficiary employer. The Agency can be established in different legal forms of companies, as

well as in entrepreneurial form and it must obtain the permit for assigning the employees issued by the Ministry. The contractual relations arising from the employee assignment are determined by two agreements: employment agreement concluded between the Agency and the employee, and agreement on employee assignment concluded between the Agency and the beneficiary employer. An employee may conclude an employment agreement with the Agency for indefinite or definite term. The Agency may assign an employee who concluded an employment agreement for a definite period of time to work with the beneficiary employer for the maximum period of 24 months, in accordance with the corresponding provisions of the Labour Law. According to the 2017 data, there were 91 registered agencies for employment with around 100,000 workers (or some 2% of registered employees) engaged in both private and public sector.

One of the most important and hotly disputed regulations is the limitation of number of assigned employees. The Law establishes that the total number of assigned employees employed for a definite term with the beneficiary employer cannot exceed 10% of the total number of beneficiary employer's employees. However, this limitation has been softened in the course of adoption of the law and it does not apply if the employees are employed by the Agency for indefinite period of time.

Despite some controversies, the adoption of the Law on Agency Employment can be considered to be an improvement since so far leased workers could be engaged through contracts on temporary and occasional jobs which did not allow workers to exercise their right to sick leave and vacation, among others. The Law on Agency Employment stipulates that a leased worker should be provided with the same working conditions as the employer's comparable employees (who perform the same or similar type of job), that is, the same working hours, overtime and night work, the same right to leave of absence and the same way in which their salary is calculated. The concept of comparable employee is a novelty which may cause numerous issues in practice, especially in the cases when there is no such employee within the beneficiary employer. Since the implementation of the Law started only in March 2020, it is not possible to assess its impact in practice.

Regulation of seasonal work was introduced in 2018, but its full implementation started in 2019. The Law on Seasonal Work was adopted in June 2018. The Law defines the jobs in which seasonal workers can be employed in the sectors of agriculture, forestry and fisheries. The Law prescribes that an employer may hire a seasonal worker for up to 180 days within a calendar year, whereby the worker has the right to pension and disability insurance, as well as health insurance in case of workplace injury and work-related diseases, for the duration of their employment. Wages are calculated and paid per work hour in the amount not lower than the prescribed minimum wage. The new Law prescribes that a worker is not removed from the unemployment register while working in a seasonal job, nor is the payment of the unemployment benefit stopped. While the Law is an important step in enhancing the rights of seasonal workers, it puts significant additional financial burden on employers, most of whom are farmers and other self-employed persons, not necessarily engaged in the formal economy. Therefore, it is very debatable to what degree it is fully implementable.

One third of all seasonal workers were registered in 2019. According to public remarks of the Agriculture Minister², in 2019 there were around 80,000 seasonal workers, out of which some 27 000 were registered, bringing into the budget 245 million dinars (equal to 2.2 million EUR). This represents a very significant improvement over 2018, when only 3500 seasonal workers were registered. In a recent analysis, an influential economic think-tank NALED assessed this result to be a great success and advocated the extension of the seasonal worker registration system to some other sectors outside agriculture, for example tourism, garbage collection, construction and home services.

The employment of foreign citizens is fast growing, but remains relatively marginal. Foreigners are slowly appearing in the labour market in Serbia. According to the National Employment Service, a total of 13802 work permits were issued to foreigners in 2019. This is 53% more than in 2018 when 8 990 work permits were issued to foreigners. Most licenses were issued to nationals of China (3149), the Russian Federation (2 813), Turkey (772), Ukraine (697), North Macedonia (501), Italy (448) and Romania (443). There are no estimates on how many foreign workers work informally.

Forced migrants remain largely outside the Serbian labour market. Since the great migrant crisis in 2015, about 1.5 million migrants have travelled through Serbia en route to Western Europe. Due to difficult EU entry, some migrants remained blocked in Serbia for months. In the first nine months of 2019, 12 937 persons expressed their intention to apply for asylum in Serbia, i.e., they were registered during the asylum procedure. That is an over 50% increase relative to 2018. Under the Law on Asylum and Temporary Protection (LATP), all foreigners who have been granted asylum and asylum seekers are guaranteed the possibility to work in Serbia. Almost a negligible portion of work permits were granted to asylum seekers, although employers in occupations where there is a shortage of labour are showing interest in employing asylum seekers. Asylum seekers are entitled to a personal work permit issued by the National Employment Service (NES). In the course of 2019, as of 30 October, NES issued 129 personal work permits to asylum seekers. In the same period of 2018, 77 such personal work permits were issued. The interest of forced migrants remains poor since they as a rule do not intend to stay in Serbia, and the jobs offered are almost invariably poorly paid and unattractive (Belgrade Center for Human Rights, 2019).

2.2.2 Wages

The Constitution guarantees the right of workers to fair remuneration for their work (Article 60). The Labour Law prescribes that an appropriate wage shall be fixed in keeping with the law, a collective agreement or an employment contract and that workers shall be guaranteed equal wages for the same work or work of the same value, adding that the employment contracts violating this principle shall be deemed null and void. The Act defines work of the same value as work requiring the same qualifications, abilities, responsibility and physical and intellectual work.

² <https://www.blic.rs/biznis/vesti/nedimovic-e-prijava-sezonskih-radnika-prvi-korak-ka-eagraru/veb8bt7>

The Labour Act stipulates that the Social-Economic Council (SEC), a tripartite institution described under the section “Social dialogue and involvement of workers”, annually issues a decision setting the minimum wage for the following calendar year. The SEC sets the minimum hourly wage, taking into account the following criteria: the existential and social needs of workers and their families expressed in the value of the minimum consumer basket, the employment rate and unemployment rate trend, the GDP growth rate, the consumer price trends, national productivity and average wage rates. The Serbian Government sets the minimum wage in the event the SEC fails to reach an agreement.

Real wages have been growing very slowly in the past years. Serbia recorded very high wage growth dynamics prior to the 2008 crisis: the growth in real wages according to the SORS survey was double the growth in GDP in the period 2000-2008. Since the start of the crisis, wages decelerated sharply. The gross average wage in Serbia has stagnated around EUR 500 (at the current EUR exchange rate) during the entire period from 2012 to 2017.

As part of fiscal consolidation, wages in the public sector above 25 000 dinars net (approximately EUR 200) were cut by 10%, which has been reflected in the overall drop in real wages in 2015, despite the healthy growth in employment. This drop was neutralised by a pay increase in 2016, however wages remain relatively depressed, especially expressed in purchasing power parity, as presented in Table 1.

Table 1. Average monthly gross wages in Serbia, total

	2010	2011	2012	2013	2014	2015	2016	2017
At purchasing power parity	1042	1095	1142	1134	1135	1130	1128	1139
Real change (gross), in %	0.6	0.1	1.0	-1.9	-1.7	-2.4	2.6	0.9

Source: World Bank, 2019

Wage growth started to accelerate in 2018. In the period from January to December 2018 growth of gross wages compared to the same period in the previous year was 6.0% in nominal terms and 3.9% in real terms. At the same time, net wages increased by 6.5% in nominal terms and by 4.4% in real terms, the faster growth of net wages reflecting the halving in unemployment insurance contribution rate. Median net wage in December 2018 amounted to 39 623 dinars (EUR 337).

In 2019, increase of gross wages amounted to 10.5% in nominal terms and 8.4% in real terms. In December 2019, average nominal gross wage was 14.0% higher than in December 2018, while the increase in real terms was 11.9%. The increase in nominal median wage between December 2018 and December 2019 was 12.3%. The driving force behind the rise of wages at the end of 2019 was the increase of public sector wages, by 8% to 15%, implemented in November 2019. This led to further widening of public sector wage premium, which is among the highest in Europe (Vladisavljević, 2019). It should be mentioned that there are two main reasons for generous increases in public sector wages. The first is related to parliamentary elections scheduled for April 2020. The second is related to a growing concern over increased emigration to Western Europe, especially of skilled medical staff. That is why salary increases were highest for nurses and doctors.

The 2014 amendments to the Labour Law reduced some monetary rights of employees. Under current regulation, the seniority premium for the years of service is paid only for the time spent working at the current employer (and not for the full years of service as earlier), minimum 0.4% (reduced from 0.5%) of the base per one year of service. The mandatory wage premiums are abolished for shift work, and shift premium negotiations are left to collective bargaining. The compensation for annual leave has been reduced by the exclusion of performance pay from the base. The maximum annual number of paid days for the leave of absence for personal reasons has been reduced from 7 to 5 days. The employee may be temporarily transferred to another job without internal procedure for a maximum of 45 working days over a period of 12 months.

Since 2016, the Government has supported the rise in minimum wage. The minimum wage dynamics was for a decade or so broadly stable and kept up with the growth of the average wage, at the level of around 40-45% of average wage. In 2014 and 2015, in order to support its fiscal consolidation efforts, the government unilaterally kept nominal minimum wage unchanged. Following the success in fiscal consolidation, the minimum wage was allowed to grow in real terms and in 2018 it stood at 143 dinars (EUR 1.21) net per hour. In 2019, it was set at 155.3 dinars (EUR 1.31).

The share of low wage earners in Serbia (earning less than two thirds of median wage) according to the Structure of Earnings Survey (SES) in 2014 was rather high at 23%, which is higher than the EU average at 17%, and higher than in all but three Member States – Latvia, Lithuania and Poland (World Bank, 2018). However, given the very high effective tax wedge at low wage levels in Serbia, its relative position in the ranking would be even worse if take-home wages were compared. Furthermore, if those informally employed, self-employed and employed in firms with less than 10 employees were included in the calculation, the share of low wage workers would be even higher.

In-work poverty is relatively high but decreasing according to the SILC, standing at 10.0% in 2018, down from 10.8% in 2017, 12.6% in 2016, 13% in 2015 and 15.1% in 2014. In 2018, for persons aged 18 and over, it was higher among employed males (11.3%) than females (8.3%). Self-employed persons, which also involve agricultural workers, are significantly more exposed to poverty, with a rate of 31.0%, in comparison with employees (6.8%).

2.2.3 Information about employment conditions and protection in case of dismissals

The Labour Law stipulates that individual employment contracts should be concluded before the worker starts to work in a new job. The contract should contain information about the worker's rights, in the first place those rights and duties that are arranged in more precise manner by the contract itself than by the law.

The employer is obliged to inform the employee, in writing, about the prohibition of abuse, and the rights, obligations and responsibilities of the employee and the employer in connection with the prohibition of ill-treatment. The Law on the Prevention of Abuse at Work (2010) and the Law on the Protection of Whistle-blowers (2014) were adopted in order to improve the position of

workers and provide additional protection. According to the Labour Law a worker is entitled to complain against a violation or denial of his employment rights to the labour inspection, launch proceedings before the competent court or require the arbitration of the disputed issues together with the employer. The Agency for Peaceful Resolution of Disputes introduced the free telephone line "SOS Mobbing" in order to better inform both employees and employers about the provisions of the Law on the Prevention of Abuse (mobbing) at Work. There are no precise statistics on the number of mobbing lawsuits in Serbia (the latest is from 2016 and records 209 applications), but civil society organisations dealing with this issue point out that almost 90 percent of such disputes are resolved out-of-court, within the peaceful dispute resolution process.

In 2019, Serbia had a high-profile case of whistleblowing. Aleksandar Obradovic, an employee of the state-owned Krusik weapons factories, spent three months in detention because he leaked the documents related to the alleged corruption in arms trade, involving a father of Interior Minister. The case is still open. NALED (National Alliance for Local Economic Development), the largest and most influential public-private association and think-tank in Serbia, in February 2020 recommended that the Ministry of Justice amend the Law on the Protection of Whistle-blowers, which would also allow legal entities, especially non-governmental organisations operating in the fields of human rights and anti-corruption, to become whistle-blowers.

Mediation as an informal way is one of the options of out-of-court dispute resolution that the employee needs to be informed about. Any individual dispute between an employer and an employee can be resolved by the Republic Agency for the Peaceful Resolution of Labour Disputes. The parties voluntarily approach the mediation services of the Agency, however once the decision is made it becomes legally binding. The parties to the procedure for obtaining a decision do not have the right to conduct the court proceedings on the same basis, but they are entitled to a lawsuit for annulment in accordance with the applicable regulations. The provisions of the Law on Peaceful Resolution of Labour Disputes apply to individual and collective labour disputes. The Law was amended in 2018, significantly broadening the scope of work of the Agency, which was approvingly commented by experts in the field. According to the Minister of Labour³, in 2019 the number of labour disputes resolved before the Agency doubled from the previous year and increased 10 times compared to 2010. Between January and October 2019, 2 194 proceedings were resolved before the Agency, 32 of which were collective and the rest were individual. Of 2 123 individual disputes, 2 098 were related to material disputes (such as over payment of travel expenses, salaries, jubilee awards, etc.), six were dismissal, 15 were mobbing. The collective disputes were related to implementation and conclusion of a collective agreement, exercise of the right to determine the representativeness of trade unions, and to the right to strike.

Unlike the principle of voluntariness in the peaceful resolution of labour disputes, **in the case of abuse at work peaceful resolution of disputes is a compulsory step towards judicial protection.** An employee who suffers abuse at work is obliged to request protection from the employer in the prescribed deadlines, and in case of unsuccessful procedure, he/she can initiate litigation. However, if a person responsible in a legal entity or an employer with a natural person's property

³ <https://www.rts.rs/page/stories/sr/story/125/drustvo/3703417/sve-vise-radnih-sporova-resava-se-mirenjem.html>

is charged with abuse, an employee who considers that she/he is exposed to abuse can also initiate proceedings before the competent court without request for initiating mediation proceedings or contact the Republic Agency for the Peaceful Resolution of Labour Disputes. The biggest drawback of this regulation is that the disregard of the employer for the Law (i.e. does not respond to the request, improperly executes the request, etc.) again leads only to the often prohibitively long court procedure without any special relief: the burden of proof is on the employee.

When it comes to court cases regarding the potential breach of employee's right to information, apparently the courts more frequently side with employees. In 2011, the Supreme Court of Cassation found that it is illegal for the employer to, after informing the employees of the schedule of working hours and publishing it in written form, alter it in the course of the work process (without the occurrence of an emergency situation, or the circumstances in which urgent action should be taken) by a verbal notice only⁴. In 2013 Appellate Court in Belgrade delivered the judgement that if the employer does not explicitly inform the employees about the time and the manner of using the rest during the daily work, so that the employee spends the time provided for rest by working, the employer is considered to have violated the law and that there is a basis for compensating the employees⁵. In 2012 the Appellate Court in Belgrade delivered the judgment that, since the employer is authorised to determine the schedule of the use of annual leave, if it does not make the decision and thus makes it impossible for the employee to exercise his/her right to annual vacation, the employer should pay the damages to the affected employees.

2.2.4 Social dialogue and involvement of workers

Article 55 of the Constitution guarantees the freedom of association in trade unions. Trade unions may be established by registration with the competent government authority pursuant to the law and do not require prior approval.

Industrial relations and collective bargaining in Serbia are primarily regulated by the Labour Law and the Law on Social-Economic Council (2004). The Labour Law, adopted in 2005 and thoroughly revised in 2014, contains articles regulating the actors and procedures of collective bargaining. The Law on Socio-Economic Council, adopted in 2004, focuses on tripartite concertation, especially at the national level.

National tripartite policy concertation takes place within the SEC. The SEC is defined by the law as an independent legal entity established to enhance the development of social dialogue. It consists of 18 members, six of which are representatives of the Government, six of trade unions and six of employers. The SEC has a relatively broad agenda and remit, but in practice the concertation is reduced to minimum wage determination and discussion of various socio-economic issues, such as changes in legislation relevant for working conditions and living

⁴ Judgment of the Supreme Court of Cassation of 19.10.2011

⁵ Judgment of the Appellate Court in Belgrade from 23.01.2013

standards of workers and pensioners. The relations between social partners are more often conflictual than cooperative, and overall, the Government is not deeply interested to pursue consensus. The social partners are additionally burdened with the unresolved issues of representativeness and full legitimacy of their constituent members, and the work of SEC has frequently been stalled in the past few years. There have been some project-based efforts to enhance local level social dialogue, but functional social-economic councils at the local level are few and far between.

The government has always been able to influence the key outcomes of the social dialogue and collective bargaining, especially at the national and sectoral levels – but often also taking the role of a powerful mediator even at the company level. As a lasting feature, collective bargaining has been characterised by asymmetry in legitimacy and bargaining power of the three key representatives of organised interests – government, trade unions and employers.

Sectoral-level bargaining is dominant in the public sector, while company-level bargaining is dominant in the private sector. Judging by the collective agreements signed, the main trends with regard to collective bargaining are differentiated – in public sector, there is a tendency for sectoral negotiations, while in private sector, decentralised, company-level bargaining is more common, especially since 2014 changes making it more difficult to legally extend collective bargaining. General and special collective agreements are implemented directly and are binding for all employers who at the time of concluding the collective agreement have been members of association of employers – party to the collective agreement.

An amendment to the Labour Law in 2014 made the conditions for the extension of sectoral collective agreements to non-signatories much more restrictive. This has further undermined the development of sectoral bargaining outside of public sector, where the government is able to negotiate directly with sectoral trade unions. While around 2013 there were three extended agreements in private sector (chemical and non-metal industry, construction and construction material industry, and metal industry), in 2015, as well as in 2019, there was only one, not overly important - for musical performers. Sectoral collective agreements remain very rare in the private sector. There are other reasons for this unfortunate trend, including the weakness and low membership numbers of sectoral federations within the only representative employers' association and the influence of the Foreign Investors Council which advocates company level negotiations and advises its members not to cooperate with the Employers' Association.

In 2019, there were 19 sectoral (special) public sector collective agreements in force, signed by the Government of Serbia or local self-governments.

Other forms of worker participation are underdeveloped both in legislation and in practice. The Labour Law envisages the possibility to form a Council of Employees for employers with over 50 employees. Still there is no sufficiently operationalised legal framework for institutionalising informing, consulting and co-deciding of workers in a company, that is, for worker participation. By the same token, consultation and worker participation in decision-making is limited to economic and social rights of employees, which does not explicitly include the issues related to business operation of the company, organisation of work, introduction of new technologies and the like, since these issues cannot be specifically determined as economic and social rights of

employees. This solution deters from the comparative practice in the EU, which envisages much wider powers for worker representative bodies in managing the company, which is aimed at preventing aggressive corporate management and securing the balance between labour and capital.

2.2.5 Work-life balance

Article 66 of the Constitution guarantees special protection to the family and the child, mothers and single parents, while the Labour Law guarantees the right to suitable leave and flexible working arrangements. It guarantees support and protection to mothers before and after childbirth and special protection to children without parental care and children with physical or intellectual disabilities. The Labour Law regulates that pregnant women and women with children under the age of three may not work overtime or at night. Exceptionally, a woman with a child over the age of two may work at night but only if she specifically requests this in writing. Single parents with a child under seven or a severely disabled child may work overtime or at night only if they submit a written request to this effect. If the condition of a child requires special care or if it suffers from a severe disability, one of the parents has the right to additional leave. One of the parents may choose between leave and working only half-time, for 5 years maximum. Under the Labour Law, one parent may take leave from work until the child's third birthday and her/his labour rights and duties will remain dormant during this period.

Rules regarding maternity and parental leaves are relatively generous in comparative perspective. The new Law on Financial Support for Families with Children (adopted in late 2017 and implemented from July 2018) kept the old rules regarding the duration of leaves, but somewhat changed the rules regarding the wage compensation amounts. Standard duration of maternity leave is three months, at least four weeks before and two months after the birth. Wage compensation is set at 100% of average wage for the past 18 months, with the ceiling of three times the average wage in the economy. Parental leave has differentiated rules. For the first and second child the duration is nine months following the maternity leave. For the third child it is set at two years, calculated from the birth of a child. Reimbursement is the same, at 100% of average wage for the past 18 months, with the ceiling of three times the average wage in the economy.

The new law, just as the one it replaced, implicitly assumes that as a rule the mother will use both maternity and parental leave. No incentives are envisaged if spouses agree to share parental leave. The use of parental leave by fathers (except as single parents) is excessively rare. In 2019, the total of 328 fathers used the parental leave. According to a survey conducted by the Ministry in charge of demographic issues, the use of parental leave by fathers is somewhat more common in financial institutions, while it is much rarer in local self-governments.

New eligibility rules on maternity and parental leaves are more inclusive, with coverage extended to atypical forms of employment. The eligibility for paid maternity leave was extended to mothers on service and temporary contracts as well as to insured farmers. However, since the rules regarding the amount of compensation have been somewhat tightened (in an effort to contain abuses and to contain high costs of this categorical, non-contributory programme), it has

caused an outcry among some influential civil society and rights groups (see for example Human Rights Report, 2018). Both legal actions and media campaign to repeal the provisions on benefit ceiling of three average salaries as well as proportional reduction in the amount of benefit for mothers with less than 18 months of recorded work experience lasted throughout 2019, but have not yet resulted in the change of the Law.

According to a World Bank analysis, maternity and parental wage compensation are very expensive and regressive programmes (World Bank, 2015). Before the reform, maternity and parental wage compensation reached only 0.4% of those in the bottom quintile but a full 4% in the wealthiest quintile. It takes some 0.5% of GDP, almost twice as much as the only targeted social assistance programme, financial social assistance.

The current tax-benefit system supporting work-life balance appears to be quite unbalanced. The support to employed parents is reduced to rights related to maternity leave and leave to take care of a child, which are comparatively generous, whereas tax credit, another important and common instrument for improving living standards of employed parents with children, and one which is supposed to support these children throughout their childhood, is completely lacking. Unfortunately, bearing in mind the current system of work-related taxes with minimal tax rates and outsized contributions, the introduction of tax credits for employees with children would hardly make a significant difference.

2.2.6 Healthy, safe and well-adapted work environment and data protection

Article 60 of the Constitution guarantees everyone the right to occupational safety and health and the right to protection at work. Special protection at work is guaranteed to women, youth and persons with disabilities. Serbia has ratified two ILO Conventions that are most relevant in respect of occupational safety and health: Convention No. 187 on a Promotional Framework for Occupational Safety and Health and Convention No. 167 on Safety and Health in Construction.

Serbia's system of employment injury protection is a combination of social insurance with elements of direct employer liability (ILO, 2013). Employers are formally responsible for financing employment injury protection. However, it has not been effectively enforced in practice.

Occupational safety and health is under the primary responsibility of the Ministry of Labour, Employment, Veterans and Social Affairs. The Ministry includes two administrative bodies active in the subject field: (1) the Occupational Safety and Health Directorate that, among other things, prepares legislation and bylaws, and (2) the Labour Inspectorate which is in charge of supervision over its enforcement.

The Labour Inspectorate has a central role in coordinating prevention of accidents at work and occupational diseases as well as in investigating relevant circumstances once employment injuries occur. The Law on Safety and Health at Work (Article 65) mandates immediate supervision by the labour inspector when the employer reports a fatal, severe or collective injury at work. Although several institutions were previously involved in collecting data on employment injuries, the Labour Inspectorate has been the only relevant source of data on work accidents for the past

ten years. However, statistics on non-fatal accidents at work are very incomplete and thus suffer from severe under-reporting.

Fatal accidents at work, which are fully covered by statistics, currently show non-standardised incidence rates about the same or slightly above the EU averages. The trend of fatal accidents at work in the period from 2009 to 2017 is presented in Figure 1 (Arandarenko, 2018). Fatal accidents (the upper line) are defined as per Eurostat definition as those that lead to the death of the victim within one year from accident taking place. The series of accidents with immediate fatal result as a subset of all fatal accidents at work can be traced back several years longer as shown in Figure 1.

The Government of Serbia declared 2019 to be the year of health and safety at work, following the sharp increase in fatal accidents at work in 2018, unofficially put at 53. However, there are no official records yet on the total number of fatal accidents in 2018 and 2019. Although it was planned to adopt the new Law on Health and Safety in 2019, the law is still in its drafting phase. One of the novelties will be the adoption of electronic record of injuries.

Figure 1. Fatal accidents at work in Serbia



Source: Labour Inspectorate, annual reports

In Serbian labour legislation psychosocial risks are largely addressed indirectly. Health and Safety at Work Law contains regulations protecting employees from exposure to conditions that might be harmful and damaging to their psychosocial health, including overly monotonous work and unfair and aggressive behaviour of an employer (mobbing). However, the health and safety regulations are far more concerned with the direct physical health and safety of employees.

The Constitution guarantees the right to personal data protection in Article 42. The Personal Data Protection Law (adopted in 2008) governs the collection and use of personal data. Serbia is not a member of the EU and therefore has not implemented the Data Protection Directive. **The new Personal Data Protection Act, adopted in November 2018, entered into force in August 2019.** The Act follows the provisions of the General Data Protection Regulation (GDPR), which entered into force in May 2018, and the European Union Directive on the protection of natural persons.

There are growing concerns regarding the implementation of the new Personal Data Protection Act (PDPA). The nine-month period between the PDPA's adoption and entry into force was insufficient for the relevant government authorities and economic entities to prepare for the fulfilment of all their obligations prescribed by this law (BCHR, 2019). The fact that only 200 of 15,000 or so public administration authorities had appointed their personal data protection officers a month after the law entered into effect, testifies to the validity of the concerns (BCHR, 2019).

The Commissioner for the Right of Information and Protection of Personal Data has identified several problematic features of the current Law on Personal Data Protection. First, the Law requires electronic data verification in filling the electronic forms of legal entities. If consistently applied, the legality of the e-Government Portal would have to be denied for everyone. The Law fails to set standards and rules in important areas such as video surveillance, processing of biometric data, the procedure for exercising the right to protection of personal data and the process of taking the person's data out of the economy. In 2017, the Commissioner for Information of Public Importance and Personal Data Protection initiated oversight over the implementation of the Personal Data Protection Act in the MLEVS and the Ministry of Health because the Government officials favourably responded to a request by a large foreign owned company (Hesteel Smederevo) to step up oversight of sick leave in this company. The Commissioner deemed that the Labour Law already includes provisions protecting employers from sick leave abuse and mechanisms for identifying such abuse and that the oversight of sick leave of workers is not within the remit of the Serbian Government (Human Rights Report, 2017).

2.3 Chapter III: Social protection and inclusion

2.3.1 Childcare and support to children

Children are, in terms of exposure to poverty, by far the most vulnerable age group in Serbia. Children in Serbia are more likely to be found at the bottom of the income distribution by their income level. According to the SILC statistics, in 2017 at-risk of poverty rate for children was 30.5% compared to 22% for adults, and 25.7% for the general population. In 2018, at-risk of poverty rate for children was reduced to 28.8% (males 30.1%, females 27.5%), however this was roughly in line with the reduction in general at-risk of poverty rate, which stood at 24.3%. The poverty levels are especially high in case of multi-member families with more than three children. Young adults (aged 18-24) had even slightly higher poverty risk of 29.1% in 2018 (males 29.9%, females 28.2%).

Lower income status of a child is highly correlated with lower probability of participation in early childhood education. According to the Multiple Indicator Cluster Survey (MICS) data, 9% of children aged 36-59 months from the poorest households attend early childhood education, compared to 82% of children from the richest quintile (UNICEF, 2015). These differences are found to be increasing over time. Furthermore, the reasons for non-attendance sharply differ between the poorest and the richest quintile. While in the richest quintile most of the children who do not attend early childhood education programmes (75%) do not attend it due to parental attitudes, most of the children from the poorest households do not attend due to access problems (61%). Among the children aged less than 3 years 13.3% were in formal childcare in 2018 (14.5% in 2017, 11.1% in 2014). In EU Member States, in 2018 35.1% children aged less than 3 years were in formal childcare (an increase compared to the previous year; 34.2%). According to the Ministry of Education, in 2019 Serbia had 72.35% children aged between 3 and 7 years in kindergartens.

Only 12% of the poorest children aged 3-5 are on track in the literacy-numeracy dimension of early child development index (ECDI), compared to 40% among other children. The ECDI index is calculated as the percentage of children that are developmentally on track in at least three out of four domains: literacy-numeracy, physical, social-emotional and learning. In Serbia, the lowest on-track development is in the literacy-numeracy dimension, with 35% of children aged 36-59 months on track. Notably below the average in this dimension are the poorest children, with only 12% on track, compared to 40% among other children (UNICEF, 2015).

Child poverty is most pronounced in sparsely populated (rural) areas, in South-Eastern Serbia, and among children whose mothers lack secondary education. The share of the poorest children in different types of settlement goes from 9% for children living in densely populated areas, to 11% in intermediate areas, reaching 27% in thinly populated areas. Most children in the overall population live in thinly populated areas (40%), while among the poorest this share is 65%. By regions, the share of the poorest children is lowest in the Belgrade Region (9%) and highest in the region of Southern and Eastern Serbia (24%), while regions of Vojvodina (15%) and Sumadija and

Western Serbia (16%) are in between these extremes. Almost all children whose mothers have no education are poor (96%), while only 2% of children whose mothers have higher education are poor. The secondary education of the mother seems to reduce poverty in densely populated and intermediate areas significantly. In thinly populated areas, however, this reduction is more modest, with one quarter of children whose mothers have secondary education still living in the poorest households (UNICEF, 2015).

Children from poor households face clear health-related disadvantages. The MICS data shows that children with mothers living in the poorest households are more at risk than other children. These children are more frequently born with a weight below 2 500 grams than children from other households, and this trend continues through early childhood, resulting in a greater frequency of being underweight and stunted for their age. Overall, in 2014 the prevalence of underweight children under 5 years of age was 2%. However, this indicator is higher for the poorest children (5%) than for other children (1%). Similarly, when observing the height of children in relation to their age, 14% of the poorest children are stunted, compared to 5% of other children. Another alarming result is that as much as 72% of the poorest households with children use wood fuel for cooking and only 19% use electricity, although up to 98% of the poorest households actually have electricity in their home. This is because the price of electricity is too high for the poorest households and they are forced to use traditional fuel for cooking. Unlike electricity, wood produces a lot of smoke during burning and children are in direct contact with it. This means that children in poor households are more exposed to an unhealthy environment that causes various respiratory problems like pneumonia, asthma, etc. (UNICEF, 2015).

The family benefit system is austere and unjust. Despite the fact that Serbia experiences strong processes of demographic ageing and a shrinking population with low fertility rates, the programmes of child allowance and monetary social assistance, the two key non-contributory programmes targeted toward low-income families with children, have restrictive and sometimes discriminatory eligibility criteria, low coverage as well as austere benefit amounts insufficient to lift many recipient families with children above the poverty line. The coverage is further eroded by complex administrative procedures discouraging full take-up. Examples of discriminatory eligibility criteria for family benefits are the existence of very low threshold set for means test in rural areas, as well as denial of financial social assistance, child allowance or birth grant for the fifth and any further child, allegedly for health reasons, to promote ‘responsible parenting’, allegedly following the recommendation of World Health Organisation (Arandarenko, 2018). Specifically, MICS data on outcomes among children from Roma settlements suggest that part of the most vulnerable children remained outside of the system of support. In general, an important policy implication based on all observed domains is that additional support measures (not exclusively financial) for children from the most destitute households are required.

The 2018 Law on Financial Support for Families with Children introduces conditionality related to access to child benefits. The right to child benefits may be exercised only in the event the children “live, go to school and regularly attend class in the territory of the Republic of Serbia,” which is in contradiction with the very purpose of child benefits and may have particularly negatively effects on the Roma in Serbia, many of whom have more than four children (Human Rights Report, 2017).

A particular new challenge is related to the rights of refugee children. According to UNHCR (Belgrade Center for Human Rights, 2019), in the first nine month of 2019, there were 2 939 children among persons who expressed their intention to apply for asylum in Serbia, of whom 823 were unaccompanied and separated children. According to Serbian legislation, asylum seekers and those who were granted asylum in Serbia are entitled to free primary and secondary education. The most significant progress in terms of the refugees' access to the right to education has been made in the area of primary education. During 2018/2019 school year, 383 migrant children, including 82 unaccompanied children, were enrolled in 40 primary schools, 10 secondary schools, and 10 pre-school institutions (Belgrade Center for Human Rights, 2019).

2.3.2 Social protection

Access to social protection rights related to employment status is quite discriminatory against the growing number of workers and their families outside of formal paid employment. Historically, the social security system during the time of communist rule aimed to facilitate two related transfers – from the private sector to the state socialist sector, and from agriculture and villages to manufacturing and towns. Therefore, the communist version of a Bismarckian social insurance system in Serbia supported social-sector wage employment over other forms of employment, particularly self-employment. Towards the end of the communist rule and after the start of the transition to a market economy, this social protection system was reformed, but the inclusion of self-employed and farmers was carried out only half-heartedly. At the same time, the discriminatory (or non-inclusionary) rules were reinforced against workers on flexible employment contracts, which represent a growing share among the employees in the formal labour market.

A related problem is that the social insurance contribution rates are set very high (as of 2020 the total rate is 37.05% of the gross wage, down from 37.8% in 2019). Informality, being a dominantly rural phenomenon, affecting disproportionately lower educated, young and older workers, is in most cases a result of forced exclusion, rather than of voluntary exit (Arandarenko, 2016). Therefore, the formality and privileges in terms of social protection come at a very high cost for these vulnerable groups. The costs of formalisation for informal workers and employers thus often tend to be prohibitively high. The tax wedge (the share of personal income tax and social security contributions in total labour cost facing a formal employer) at the level of minimum wage after the last reduction is around 36% which is significantly more than in the majority of EU Member States (Arandarenko and Aleksic, 2019).

Another problematic feature is the existence of mandatory minimum social security the base of which is set by law at 35% of average wage. It serves as the base for calculation of pension and health contributions for farmers and some other categories of self-employed, but at the same time it is mandatory for anyone holding a formal employment contract. In practice, it actually penalises low-wage part-time work and crowds out such workers into full informality (Koettl, 2013).

The extent of informality and non-participation in the labour market among the younger and prime working age population is very worrisome. Data provided by the Pension Fund of Serbia show that as few as 55% of the population in the 35-39 age group, the prime working age group, are actually making contributions (World Bank, 2015). This should be compared to the employment rate of around 80% for that age group, implying that almost a third of employed prime-age workers do not participate in social protection schemes. Today, 77% of the elderly are collecting benefits. The rise of the informal labour market suggests that in the near future as persons begin to reach retirement ages, an increasing percentage may find themselves unable to work but ineligible for a pension, which will create a future gap which may need to be covered through social assistance (World Bank, 2015)

The current pension system is inter-generationally unjust, which might be the reason for the lack of interest of younger generations to join it. The structure of the pension system around 2015 implied that 20-year-olds entering the labour market would see benefits falling drastically by the time they retire (according to a World Bank analysis, to as little as 7% of their wages). Even with 2019 changes to the so-called Swiss indexation formula (growth of pensions following half the wage growth, half the Consumer Price Index/CPI growth), the pension to wage ratio for 20-year-olds would not exceed 30% once they get to the retirement age. This does not offer much incentive to join the pension system.

Atypical work contracts are almost equally burdened by labour taxes for employers, but offer a less attractive package for workers. Atypical formal work contracts (service contracts, temporary contracts, etc.), often the only choice available to labour market entrants, imply a tax wedge that is approximately the same as for open-ended employment contracts, but without many additional costs for employers and benefits for workers stemming from the application of Labour Law (such as paid vacations, severance payments).

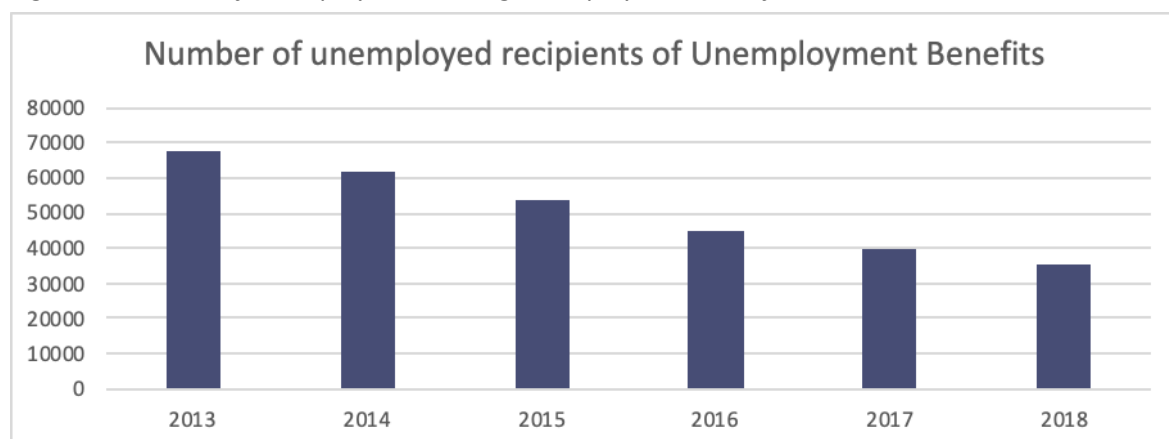
Many young people are stuck for prolonged periods of time in youth and student cooperatives as hybrid forms between formal and informal work with minimum social protection. All student jobs and many jobs for non-students are of a hybrid character – while there is a written contract, for those in education, only minimal disability and health insurance is provided. Thus, according to the official SORS definition, these jobs could be classified as formal, while according to Krstic's (2012) definition, such jobs are informal and cover some 1.5% of total employment. As advertised on the website of one such cooperative, it is 'the cheapest legal way to employ workforce'. Indeed, not only is such work cheapest with the tax wedge of 23% and practically no legal obligations for employers, since the cooperative (fictitiously established by students!) is the formal employer, but also this is the only way to legally go around the rule of minimum social security contribution base, since it does not apply to temporary work done via student cooperatives. These advantages that are not extended to other intermediaries, nor are fully available in case of direct hire of student workforce, make the market position of these cooperatives quite powerful.

2.3.3 Unemployment benefits

In Article 69 the Constitution guarantees the right of employees to temporary unemployment benefit in accordance with the laws regulating social protection and insurance and stipulates that social insurance funds shall be established in accordance with the law. The Constitution and related laws establish the unemployment insurance system and define the rights of employees participating in the scheme, but there is no separate unemployment assistance support extended to jobseekers without contribution records. Until 2019, the combined contribution rates were 1.5% of the gross wage. Since 2019, the employer contribution rate has been abolished and the unemployment insurance contribution rate is now 0.75%, paid entirely from the gross wage. Eligibility for the benefit requires at least 12 consecutive months of coverage or 12 months in the last 18 months. The duration of the benefit mainly depends on the length of the coverage period: the benefit is paid for up to three months with one to five years of coverage; up to six months with six to 15 years; up to nine months with 16 to 25 years; up to 12 months with more than 25 years; or up to 24 months if the insured will be of pensionable age within the next two years. The replacement rate is 50% of the insured's average earnings in the last six months, with minimum and maximum amounts defined within a relatively narrow range. All beneficiaries of the unemployment benefit are entitled to pension, disability and health insurance. National Employment Service registers all employers and jobseekers and administers the programme.

In recent years, the absolute number of recipients of unemployment benefits declined significantly, as well as their share in the population of unemployed. According to the last available data from the National Employment Service, in 2019, each month 35 480 people (46.8 % females) on average exercised the right to unemployment benefits, which is 5.8% lower than the previous year, when it was 37 666. This number indicates an uninterrupted continuation of a declining trend since 2013 when this number was 67 874. In 2019 unemployment benefit recipients constituted 6.7% of registered unemployed, compared to 6.5% in 2018. Some 80% of all recipients of unemployment benefit get the minimum amount stipulated by law, which was around 70% of the minimum wage in 2019 in net terms. This suggests strong anti-poverty protective function of the minimum wage.

Figure 2. Number of unemployed receiving unemployment benefits, 2013-2018



Source: National Employment Service, annual reports

In 2017, redundancies appeared to be the most important reason for the loss of job leading to unemployment of insured employees. Observed by the reason, 14 374 people achieved the right based on the redundancy, 4 337 on the basis of termination of work by the employer in accordance with the law, 917 as a result of bankruptcy of the employer, 370 due to the initiated liquidation procedure of the employer, and 18 575 for other reasons. The number of people in all mentioned group follows the overall declining trend since 2013.

In 2018, expenditures on unemployment benefits amounted to 11.5 billion dinars (EUR 97 736 215). The most common reason for the termination of employment was technological redundancy (15 916), termination of employment by the employer (4 483), bankruptcy (763), liquidation (283) and other (18 241).

Recently, access to unemployment benefit has been legally restricted for employees who accept a severance payment above the legal minimum. Several changes in the Law on Employment and Insurance against Unemployment were adopted in early May 2015. Among the key amendments the most controversial change refers to the restriction to the access to unemployment benefit for those who accept a severance payment above the legal minimum (so called stimulative severance pays) in the process of restructuring. According to the previous regulation, anyone who got a severance payment above the legal minimum was eligible for the unemployment benefit immediately after their next re-employment (since the unemployment insurance contributions were not used). To prevent potential abuses, the amendment stipulated that the unemployed person who has received severance payment above the legal minimum becomes eligible for the benefit only after a full year spent in a new job. The impact of this reform on the rights of employees and on income inequality can be assessed as negative, since older workers tend to be discriminated against on the labour market. At the initiative of trade unions, this amendment has been (for over two years and a half) under the scrutiny of the Constitutional Court.

2.3.4 Minimum income

In Article 69 the Constitution guarantees the right to minimum income, without explicitly mentioning it. It stipulates that citizens and families that require welfare for the purpose of overcoming social and existential difficulties and creating conditions to provide subsistence, have the right to social protection, the provision of which is based on social justice, humanity and respect of human dignity. These rights are operationalised in the 2011 Law on Social Protection.

Serbia has only one explicit minimum-income anti-poverty programme—the means-tested financial social assistance programme (FSA), called the Material Support for Low Income Households (MOP) programme before 2011. FSA provides income support for families or households that meet certain eligibility criteria related to income, asset ownership, and employment status of able-bodied members. The amount of the benefit is the difference between an administratively pre-set income threshold for a unit of assistance of specific size (from one to six members, up to four children), using explicit equivalence scales (0.5 for second and every other adult, 0.3 for each child), with a single threshold level in 2018 of dinars 8 283 (around EUR 70), and the actual income of the unit needing assistance (household or family). In 2019 the single

threshold level was increased to 8 508 dinars (72 EUR). The average number of beneficiaries in the period from 2016 to 2018 was 268 000, or some 3.5% of Serbian population, while the total expenditures on FSA were 14.3 billion dinars (121 million EUR). Eligibility thresholds and maximum benefit levels are updated twice a year to track growth in consumer prices – meaning that their ratio to average wage levels is on secular decline – and this trend is accelerating with the substantial real wage increases in 2018 and 2019. The programme is financed by the central budget and designed by the Ministry of Labour, Employment, Veterans and Social Affairs (MLEVS). Municipal Centres for Social Work (CSW) administer eligibility verification, certification, and payments. Eligibility is verified each year and whenever circumstances change.

The FSA is well-targeted and is cost-effective, with 74% of all benefits reaching the poorest quintile, but its coverage is still low despite some efforts to expand it in the 2011 Law on Social Protection. However, these efforts have clearly not gone far enough. The beneficiaries constituted about 3% of the population in 2013, which, even under the assumption of perfect targeting, is below 40% of persons who are deemed to be in absolute poverty by national criteria. Spending on FSA is around 0.35% of GDP, below not only European but also regional standards (World Bank, 2015).

The Child Allowance Programme is intended to support the income of poor households with children. As in the FSA, eligibility is determined by asset tests. However, the benefit is fixed and does not vary with income, it is currently set at 3 000 dinars (around EUR 25). The income threshold of 9 000 dinars (around EUR 76) per family member is higher than for the FSA. Children are required to attend school. Each child is entitled to the allowance until he or she reaches the age of 19 (21 in certain cases, 26 if disabled). Households must reapply annually. Like with FSA, the child allowance is administered by the municipal CSW, where potential beneficiaries apply.

The activation concept was introduced with good intentions, but its implementation causes ongoing controversies. The Social Protection Law in 2011 introduced the concept of activating those who are able to work; prescribing for the first time that beneficiaries able to work have the obligation as well as the right to participate in activities leading to their inclusion in society. In late 2014, the Decree on the measures aimed at social inclusion of FSA beneficiaries was passed. While the initial goal was to assist able-bodied social assistance beneficiaries to find gainful employment and get out of the social assistance trap, its intentions were interpreted by some government officials in a more sinister manner – to prevent the abuse of ‘generous’ government funding by the FSA beneficiaries. The most controversial part of the Decree is the one which assigns the right to local government to engage social assistance beneficiaries in socially useful work, volunteering and public works (Article 9), implying de facto introduction of workfare, which is not recognised in the current Law on Social Protection. Several human rights groups have publicly condemned the Decree, insisting that CSWs and local authorities have been given unconstitutional rights to impose work obligations on social assistance beneficiaries – akin to serfdom according to some more radical condemnations (Arandarenko, 2017).

The Decree breaches the implicit contract between the government and able-bodied social assistance beneficiaries established by the Law on Social Protection. In the first place, the amount of FSA is set at a level which is below the nationally defined poverty line. Furthermore, FSA is provided to families with able-bodied members for only 9 months annually, with the

assumption that in the remaining three months these family members will be engaged in seasonal work or other informal or temporary work. Therefore, the implicit contract contained in the Law on Social Protection is the following – the Government provides the able-bodied social assistance beneficiaries and their families on an annual basis around half the sum needed for bare essentials, while basically turning a blind eye to the ways they secure – if at all – additional income to make ends meet. The Decree thus threatened to annihilate this long-standing implicit contract. However, its implementation in practice has been far from universal, and largely depended on its interpretation among the local governments.

Serbia faces a serious minimum income coverage gap. Only 35% of the poorest quintile receives any social assistance. Coverage of the bottom quintile, which roughly corresponds to the poor in Serbia, is among the lowest (after Spain) among EU-28 Member States (World Bank, 2015).

Low expenditure on targeted social assistance programmes is certainly one of the reasons for the high poverty risk and income inequality recorded in Serbia by the SILC statistics. According to the SILC data for 2018, a total of 24.3% of the population of Serbia are at risk of poverty, and compared to 2017, it was lower by 1.4%. At-risk-of-poverty or social exclusion rate amounted to 34.3%, and it was reduced by 2.4% relative to 2017. Still, this value remains significantly higher than the average value for the EU 28 Member States (21.9 %).

Income of the poorest quintile remained very low in 2018. According to the Eurostat data, income quintile ratio (S80/S20) was 8.58 in 2018, a decrease from 9.38 in 2017, but still far above the average for EU-28 of 5.2. The poverty risk threshold stood at 16 615 dinars (EUR 140) for single person households and at 29 907 dinars (EUR 250) for households with two adults and one child under the age of 14. The threshold for four-member households with two children under the age of 14 is 34 892 dinars (EUR 290). In 2018, 28.8% of Serbians under the age of 18 were at risk of poverty as well as 29.1% of persons between 18 and 24 years of age. The lowest poverty risk rate of 21.1% is for persons over the age of 65. By the type of household, individuals in households composed of two adults with three or more dependent children were at the highest risk-of-poverty (53.6%), followed by individuals below 65, living in single-person households (37.2%).

2.3.5 Old age income and pensions

In Article 70 the Constitution stipulates that the pension insurance shall be regulated by the law and that Serbia shall see to economic security of the pensioners. However, there is no specific mention of providing financial resources to all people in old age who might need them to ensure living in dignity. This is consistent with how the pension system operates in Serbia – it is a contributory Bismarckian type pay-as-you-go system based on insurance principle. Article 5 of the Law on Pension and Disability Insurance stipulates that the rights related to pension and disability insurance are acquired and exercised based on the duration of investment and the basic sum for which pension and disability insurance contributions had been paid, and with application of the solidarity principle. Nevertheless, the system is riddled with problems, and is probably in its current form unsustainable in the longer term, either for financing or for equity and adequacy

reasons. Average pension in December 2019 was 26 346 dinars (EUR 220). As of 2020, pensions will be adjusted using 'Swiss formula', meaning that percentage change in pension is obtained as the sum of 50% nominal wage growth and 50% CPI growth.

Serbia runs an expensive pay-as-you-go contributory pension system based on insurance.

Following the German system, the individual pension is based on the number of years of contributions, the ratio of the individual's wage to the average wage, and the value of the general point. The pension of the individual is supposed to reflect their relative average position while employed, rather than to link their benefits to their own real contributions. The replacement ratio exceeds 60%, which is rather generous internationally. Furthermore, there is a high proportion of young (early) retirees, as well as significant number of pensions based on accelerated years of service. Even after various pension reforms, including the gradual extension of retirement age for women and introduction of actuarial penalties for early retirees, as well as temporary pension cuts, Serbia belongs to the group of high spenders on pension systems as a share of GDP among European economies.

The contributory pensions are financed by very high pension contributions and are in addition heavily subsidised from general government revenues. High spending on pensions is made possible by high contributions paid by current employees and by generous transfers from the general government budget, amounting to around 4% of GDP in recent years. By over-taxing current contributors to the scheme and extending the solidarity to general public (including those who are not, nor will ever become, eligible for contributory pension), both the principle of inter-generational and intra-generational solidarity among the members of the pension insurance scheme are undermined. For example, if the rule which was in force until 2019 regarding the indexation of the point (cost-of-living indexation) were kept indefinitely, the replacement rate for new entrants to the scheme would be meagre 7% once they reach the retirement age (World Bank, 2015). Even with the introduction of Swiss formula in 2020, the replacement rate would not exceed 30%. Thus, for all practical purposes younger employees can see the high contributions they pay as an effective wage tax, rather than deferred wages.

On the other hand, universal pensions do not exist and are not considered to be an urgent priority or even a viable option by both the government and some of the members of the expert community. Currently, some 16% of persons above 65, most of them women, do not have the right to either old-age, disability or survivor pension. The number of pensioners actually declined between 2014 and 2018 by some 24 000 persons (from 1 739 000 to 1 715 000), despite the significant increase in the population over 65 of age during the same period. In the not-so-distant future, by 2025, the share of persons above pensionable age without pension rights will significantly increase, as generations most affected by the economic downturn in the 1990s reach pensionable age. Many members of these generations (sometimes referred to as 'transition losers') lost their formal jobs, were forced to exit the formal sector and to start informal self-employment, including farming. One analysis shows that at the moment only 55% of members of a younger, prime 35-39 age cohort pay pension contributions. Still, the Government officials and some members of the expert community claim the universal pension is a too costly solution and thus unviable, and that it would introduce disincentives for current employees to join the pension insurance.

Introducing universal pensions would be socially just, financially viable, and would not necessarily create the disincentives for formalisation. Economies typically pursue one or more of the following strategies to help alleviate poverty among the uncovered elderly: (1) provide a flat universal pension to all individuals above a certain age; (2) provide a targeted non-contributory benefit to the elderly poor; and (3) unify provisions for old-age poverty with the social assistance system (World Bank, 2015). While there are relevant economic arguments to be careful and not overly generous in the design of the universal pension, with the prospect of ever more uninsured people exiting the working age, the need for such an institution could hardly be denied. Any universal pension scheme would not have to cost the budget more than 4% of GDP, that is, the amount representing current regular government transfers to the account of the so-called Pension Fund, financed through general government revenues. The bulk of these revenues transferred to the Pension Fund consist of indirect taxes, paid by all members of society, so there is a compelling argument to distribute the funds so collected in an equitable fashion (including to current pensioners), instead of topping up the pensions of the members of the already privileged club.

2.3.6 Health care

In Article 68 the Constitution proclaims that everyone shall have the right to protection of their mental and physical health. However, free health care is not universal. It is extended to children, pregnant women, mothers on maternity leave, single parents with children under seven years of age and elderly persons and financed from public revenues unless it is provided in some other manner in accordance with the law. Health insurance, health care and the establishment of health care funds is regulated by the law. Serbia promotes development of health and physical culture.

The health care system is a Bismarck model with social insurance from the National Health Insurance Fund, based on universal health coverage for contributors and their family members. Private health insurance exists in supplementary form, covers faster access and enhanced consumer choice, but often serves as the only viable choice for timely intervention. Health care is directly provided through a network of health care institutions and divided into three levels: primary, secondary and tertiary health care. Financing of primary health care is based on capitation.

According to the Health Insurance Fund data from 2017, active (contributory) insured persons account for the highest number of the insured population: 2 002 000 in 2017, which is an increase from 1 912 000 in previous year and 1 838 000 in 2013. The second are pension and disability insurance beneficiaries: 1 751 000 in 2017, which is also an increase compared to previous year (1 692 000) and 2013 (1 680,000). The number of insured family members decreased in the same period, from 1 573 000 in 2013, to 1 499,000 in 2016, and to 1 496 000 in 2017, reflecting the improved labour market situation. In 2017, there were also 35,000 temporary unemployed persons among insured population (34 000 in 2016, 50,000 in 2013),

The number of active physicians has been stagnating around 20,000 since 2007. One physician served on average 368 inhabitants in 2007, while that ratio dropped to 351 in 2017, due largely to

the population shrinking. Similarly, the number of hospital beds oscillates around 40,000 in the same period (41 100 in 2007, 39,787 in 2017).

Access to healthcare is restricted for a significant group of uninsured population. Even though, according to the official statistics, 'only' 3% of population is not covered by either health insurance or free healthcare, there are many reasons to believe that in reality the right to healthcare is limited at all times for at least double that percentage. In the first place, that right is routinely denied to many employees without health insurance contributions timely paid for by their companies (or themselves). In addition, the growing categories of temporary employees under flexible contracts, especially those on service and temporary contracts, have problems with exercising this right. Adults (usually young) without a job, who live in a joint household with their parents, most often cannot get insured on any ground, except through personal payments for health insurance. Indeed, many avoid it, hoping they would not need the healthcare services, exposing themselves in that way to higher financial and health risks (Arandarenko, 2017).

Unmet health care needs are more frequent in Serbia compared to the EU average. According to the SILC results, in 2018 5.8% of population reported unmet need for medical care, compared to 4.8% in 2017, and 4.5% in 2016. 3.9% of male population and 5% of female population reported unmet need for medical care in 2016. An analysis based on 2014 data indicated that almost every seventh citizen of Serbia (14.9%) had unmet health care needs which is much higher in comparison to the other 28 European Member States that have conducted SILC surveys, where the average unmet health care needs were 6.9% (Popovic et al. 2017). Based on newer Eurostat data, in 2018 11.8% of Serbian citizens over 16 had unmet needs for medical examination or treatment, compared to 3.2% of EU-28 citizens; while 13.9% had unmet need for dental examination or treatment (3.9% in EU-28).

Health expenditures as a share of GDP are high, especially the out-of-pocket part. With double-digit (10.4%) total expenditures for healthcare services vs. GDP in 2014, Serbia falls into economies with above average allocations to health. However, in comparison to other European economies, the citizens themselves take relatively more out of their own pocket (almost 40% of total expenditures), while the government's share in these expenditures is around the average. In countries like Austria, Germany, Denmark or the UK, citizens' share in health expenditures is around 20%. When citizens need to pay great many services out of their own pocket, it inevitably increases the inequality in using healthcare services and in health outcomes.

Key health outcomes are disappointingly modest. Having an upper-middle income economy on a global scale, Serbia is ranked somewhere in the middle of the global list by life expectancy at birth, which is deemed to be the most important synthetic health indicator. Such average result – 75.8 years total in 2018, 78.5 for women and 73.3 for men (UNDP, 2019) – is unfavourable if considered in the long run, because Serbia, with an exception of the 1990s, has been a native to the group of upper-middle income economies. Moreover, when compared to former Yugoslav Republics, life expectancy is now longer everywhere except North Macedonia, whereas three decades ago Serbia lagged only behind Slovenia and Croatia (CEVES, 2017). Another concern lies in the fact that in recent years, growth in life expectancy was lower than the long-term trend. The comparison of results achieved by Serbia in health (at the bottom among the European economies), with the level of system equipment (in the middle of the range) and the level of

annual spending on healthcare (at the top of the European economies), undoubtedly shows that Serbia has an issue with efficient use of resources in healthcare – all the more so because the economies we compare to largely fail to use their resources in the most efficient manner.

2.3.7 Inclusion of people with disabilities

The Constitution guarantees the right to professional rehabilitation to citizens who are partially capable of work in order to be trained for appropriate work. The conditions for their employment should be provided in accordance with the law. The government provides social security to citizens who are incapable of work, and do not have means to support themselves.

Income, employment and living support for people with disabilities is implemented through several social protection institutions – financial social assistance (FSA); supplement for other person's assistance and care; increased supplement for other person's assistance and care; assistance and training for work; one-off financial support; support in kind and other types of material support. The right to financial social assistance belongs to an individual or family with income from work or property lower than the amount they would receive through FSA. Right to supplement for other person's assistance and care belongs to a person who is in need of other person's assistance and care, due to physical, sensory or intellectual damage, to be able to carry out basic life activities. One of the parents of a child with full disability and thus eligible for increased supplement for other person's assistance and care, after 15 years of caring for his or her child, might become eligible for a minimum pension, under the condition that he or she does not work. The Health Care Act entitles persons with disabilities to health care even if they do not fulfil the labour and employment-related requirements to have medical insurance. The right to health care also includes medical rehabilitation in case of illness or injury, and the right to walking and mobility aids, and sight, hearing, and speech aids.

The right to work-related assistance includes support in education and training for work and it is implemented in various forms. The right to work-related support is granted to children and young people with disabilities and adults with disabilities who, based on their assessed work abilities and age, can be trained for a certain work, if this right cannot be achieved on another legal basis. Assessment of the need for additional support in education is done in accordance with the regulations governing the basis of the education system, and the assessment of the possibilities for training for work is determined according to the regulations governing professional rehabilitation and employment of persons with disabilities. The right to training assistance for work is implemented in the form of covering training costs for work, accommodation expenses in students' homes, students or boarding schools, as well as in the form of reimbursement of transportation costs.

According to the Census of Population, Households and Dwellings there were 571 780 persons with disabilities living in Serbia in 2011, representing approximately 8% of the total population. Regarding gender, there is a higher percentage of women than men among persons with disabilities (58.2%). According to type of impairment, the highest percentage are those reporting mobility impairments, and the least number with communication impairments.

Out of total number of persons with disabilities aged 15 and over (564 856), 12.2% of them were reported to have never attended primary school. It is high compared to general population where the percentage of persons who never went to school amounts to 2.7%. This number also represents 41.9% of the total population of Serbia who never went to primary school. 32.8% of all persons over 15 with disabilities did not complete primary school education, compared to 3% of the total Serbian population over 15. Persons that completed primary school education account for 20.6% of all persons with disabilities over 15 (20.8% of total population). Secondary education is completed by 27.2% of persons with disabilities (total population 48.9%). College-level education was completed by 3.4% of persons with disabilities (total population 5.7%), and 3.2% completed university-level education (total population 10.6%).

There is no reliable statistics on children with disabilities. According to the 2011 Census, Serbia is an economy of 7,186,862 inhabitants, of whom 17.6 per cent are children. The number of children with disabilities is not known. Although the data on children with disabilities were collected within the last Census, the methodology applied found that children with disabilities make up only 0.7 per cent of the child population, whereas the generally accepted estimate is that children with disabilities constitute 5 per cent of the child population.

The material and social position of people with disabilities is very disadvantaged and can be compared only to that of Roma population. The data from MLESV indicate that 70% of persons with disabilities in Serbia are poor and that over half of them receive some kind of welfare. The number of guardians is on the rise, indicating that there are more people with disabilities deprived of their legal rights. There are reports on the deplorable conditions in residential institutions, especially those hosting people with intellectual disabilities (Belgrade Center for Human Rights 2016).

The Law on Professional Rehabilitation and Employment of Persons with Disabilities (2010) is the first law to comprehensively govern the employment of persons with disabilities and it gives precedence to the employment of persons with disabilities in the open labour market over 'sheltered' models of employment. The Rulebook on the Procedure, Costs and Criteria for Evaluating the Abilities and Opportunities for the Employment and Retention of Employment of Persons with Disabilities lays down that the relevant authority, Institute of Occupational Health, shall assess how a person's illness or disability affects his/her ability to work, find a job and retain it. The Institute has the discretion to find a person totally incapable of being involved in employment, based, according to some critics, on very vague and elusive standards. The law lays down active measures for the employment of persons with disabilities, including reimbursement of employers' expenses of adapting the workplace and subsidising the first 12 monthly salaries they pay to persons with disabilities without work experience who they hired for an indefinite period of time. Under this law, employers with 20–49 workers must hire one person with disabilities, while those with 50–99 workers must hire two persons, etc. Employers defaulting on the obligation to hire persons with disabilities are under the obligation pay 50% of the average wage in Serbia in the budget fund for the professional rehabilitation and encouragement of employment of persons with disabilities. However, public institutions of Serbia are exempted from the obligation. Instead, the government fulfils the obligation exclusively by allocating the requisite financial resources in the budget. This sets a bad precedent for private-sector employers

who have also been opting for paying fines, rather than hiring persons with disabilities (Belgrade Center for Human Rights, 2017)

The Law on Prevention of Discrimination against Persons with Disabilities obliges government bodies to provide persons with disabilities access to public services and facilities and prohibits discrimination in employment, health and education. It includes provisions obliging state-level and local self-government authorities to undertake special measures to encourage equality of persons with disabilities. Specific articles of, for example, the Planning and Construction Act, the Air Transportation Act, the Railway Act, the Land Transportation Act, the Public Information and Media Act and the Electronic Communications Act aim to ensure that persons with disabilities can fully exercise their rights to mobility and information. Most of the complaints submitted to the Equality Commissioner regarded discrimination against persons with disabilities. The majority of them concerned lack of access to public services and public facilities and areas (Belgrade Center for Human Rights, 2019)

Independent living and community inclusion remain distant ideals for most persons with disabilities. Persons with disabilities are rarely able to fully exercise their right to live in the community. Although Serbia has committed to deinstitutionalisation in principle, the number of institutionalised persons with disabilities has been increasing every year. In its Submission to the UN Human Rights Council for the briefing on Serbia, Mental Disability Rights Initiative (MDRI-S), stated that, due to exclusion, discrimination, and poverty, more than 11 000 persons with disabilities in Serbia were placed in large residential and psychiatric institutions. It noted that, despite the comprehensive reforms in the areas of social protection, education, health, and fundamental rights in Serbia in the previous decade, the situation of persons with mental disabilities, especially those placed in residential and psychiatric institutions, have not improved significantly and that the system did not yet offer satisfactory alternative solutions (Human Rights Report, 2017).

In its Serbia 2019 Report, the European Commission (2019) stressed that persons with disabilities were still one of the most discriminated against groups of society. No progress has been made on the rights of persons with disabilities. There is a lack of funding for development of community-based services, licensed service providers and social services. The adoption of a strategic framework on disability is still pending.

2.3.8 Long-term care

Deinstitutionalisation was introduced as a guiding principle of the Social Policy Development Strategy in 2005 and re-affirmed in the 2011 Law on Social Protection. Deinstitutionalisation involved a **shift of social services towards home-care and community-based services** and away from residential care. This strategy was further confirmed in 2011 in a new general Law on Social Protection. This law introduced the following provisions: 1) a ban on institutionalisation of children aged zero to three; 2) introduction of group homes and small residential units as new forms of placement; 3) introduction of special purpose transfers for community-based services for

communities where residential institutions will be transformed; 4) financing of supported housing services for persons with disabilities from the national level.

However, **the pace of reform and implementation of deinstitutionalisation principle has been uneven** with regards to three main groups in need of long-term care: children, elderly and people with severe mental disabilities.

Residential long-term care for children has been significantly deinstitutionalised. For example, the number of children and youth with disability placed in residential institutions decreased by 37% between 2000 and 2011. At the same time, the share of children and youth with disability within the total number of children (1 854) placed in residential institutions increased over the same period from 60 to 69%. In 2000, there were about 2 000 children without family relations in residential care and only 180 in foster families across Serbia. By 2011, the first number has gone down to around 600, but since 2013 the trend reversed and in 2016 there were 653 children in residential institutions. Similarly, by 2011 the number of children in foster families shot up to almost 5 000, but it was on a slight downward trend since, with 4639 children in foster families in 2016 (Republic Institute for Social Protection, 2018).

Care services for children present a lopsided picture: residential care, which is increasingly being reduced in terms of financing and beneficiaries, foster care which is concomitantly being increased, and a nearly absent third pillar of biological family support. Ilinca and Vanhuyse (2014) thus conclude that there is a triple trend in recent years: de facto functional replacement of residential placement by foster family placement of children, with a third element—policies/strategies to prevent children from being taken away from their biological families—largely lacking or underdeveloped currently. On the whole, the Serbian foster care system for children seems to be working well. Financial compensation given to foster families appears adequate. On the other hand, case officers at the local Centres for Social Work, for instance, have the power to decide to take children away from their homes, but not to decide to allocate financial or non-financial help to families directly, which is often a cheaper and more humane strategy, especially in view of the fact that children once taken out of their biological families on the whole tend to never return to these families (Ilinca and Vanhuyse, 2014).

Long-term care services for older people in Serbia are fragmented and are scattered between the systems of social welfare, healthcare and pension insurance (Todorović and Vračević, 2018). This poses the burning problem of coordination. The system of social welfare provides the following services for older people in need: institutional accommodation, home care, and foster families. In addition, there are two distinct forms of financial allowances available for older people: social assistance as well as disability-related financial support. The healthcare system provides long-term care services in secondary and tertiary healthcare through departments for extended treatment and care. Palliative care and home visits are provided through services for home treatment and care through health centres. The Pension Fund provides options to receive disability-related financial support, including persons residing in institutional accommodation. The amount of this support is 17 164 dinars (EUR 144) per month and approximately 76 000 older persons received it in 2017.

As per 2011 national census, more than 60 000 persons over the age of 65 (4.9% of this population) are unable to independently perform activities of daily life, or can only perform them with huge effort. Almost half of this population is over the age of 80. Furthermore, approximately 93 000 (7.4% of all over 65) need support in performing activities of daily life – 45% of this group is over the age of 80 (Matkovic and Stanic, 2014).

Deinstitutionalisation process has been severely unbalanced, with a strong focus on the improvement of childcare, while other beneficiary groups, mainly the elderly and disabled/dependent adults, remain neglected (Ilinca and Vanhuyse, 2014). While the gaps in service provision for the elderly are increasingly filled by private providers and the efforts of families and informal carers, alternative support services for the physically and the mentally disabled are lacking. For this latter beneficiary group deinstitutionalisation and increases in service capacity are of the utmost relevance. Much of the progress in the area of childcare can be traced back to strong international donor support, while other areas of social protection have failed to attract such international attention. As a result, innovative projects and progress have remained small scale and isolated. The strong, negative report of the Mental Disability Rights Initiative in 2006, an advocacy organisation dedicated to the human rights and full participation in society of children and adults with mental disabilities in Serbia, has done a lot in raising awareness of the appalling living conditions in some residential institutions for the mentally ill and has brought the problem to the attention of the public and policy makers. While the necessity to deinstitutionalise social care services for mentally ill adults is now widely recognised, an appropriate strategy to create service alternatives is less evident. Care in the family is very rarely a sustainable solution (due to the necessity of continued professional support and the lack of day care facilities) which in turn means that community-based care services must take the form of supported living arrangements. (Ilinca and Vanhuyse, 2014).

In March 2019 a group of 30 Serbian and international NGOs alerted to the deaths in Serbian residential institutions, above all in the homes in Trbunje, Tutin and Sremčica. They reported that 71% of the adult and 40% of the underage residents of these institutions lived in them until they died. They called on the Republic Public Prosecution Service and the MLEVS to make public the results of their investigations into the deaths, punish those responsible, adopt a strategic document on deinstitutionalisation and amend or repeal regulations allowing the institutionalisation of persons with disabilities against their free will. (BCHR 2019). In 2019 MLEVS prepared the new draft Law on Persons with Mental Difficulties, however at the public hearing the Minister claimed that the development of the support system to persons with mental difficulties and their families would be 'long and complicated'. The new law has not been adopted yet.

In its Serbia 2019 Report, the European Commission stressed that placement and treatment of people with psychosocial and intellectual disabilities in social institutions is still not regulated in accordance with international standards. Serbia is still lacking a comprehensive strategy on deinstitutionalisation.

2.3.9 Housing and assistance for the homeless

The Law on Housing and Building Maintenance was adopted in 2016. The Constitution does not explicitly define the obligations of the Government in the area of housing, although the constitutional basis for housing is indirectly included in Article 97, which provides that Serbia regulates and provides the system of social security, sustainable development, policies and measures for guiding and stimulating development, property and obligation issues, and other issues of national interest. The Law on Housing and Building Maintenance was adopted in 2016 as a new legal framework replacing mostly outdated regulations from 1990s. Since 1990, the role of the government in the housing sector has changed from that of the main investor, to that of regulating the development of this sector (National Action Plan on Sustainable Housing and Urban Development for Serbia, 2017).

The Law on Social Housing was adopted in Serbia in 2009 enabling the creation of a social housing stock. The responsibility for housing, including for the provision of accommodation for vulnerable population groups, was transferred to local self-governments. Article 2 of the Law defines the households to which the government directs support in resolving housing issues as those: "which for social, economic and other reasons cannot provide an apartment under market conditions". Considering that for most citizens apartments are unaffordable on the market, the coverage of potential social housing beneficiaries in Serbia is very wide. Over the past two decades, the public housing sector has almost disappeared, and the resolution of housing issues for the poor has been completely disabled, and housing needs have risen in the lower and middle-income households. However, that law has been often criticised for allowing local governments to interpret it too freely, thus shifting the affirmative measures from those who are most in need to public sector employees.

In recent history, the concept of social housing for those with low income and for the socially vulnerable was largely disregarded in Serbia. During the socialist period, the issues of poverty, poor housing, and homelessness were largely ignored, and the housing system did not manage to provide public housing for all households who required it due to limited economic resources and low efficiency. Consequently, the lower income groups were left to find individual solutions and relied on either building or renting self-built, often illegal dwellings. Therefore, illegal construction emerged as an unofficial social housing policy, tolerated as inevitable side effect of the failure of the official housing system (Petrović and Timotijevic, 2013). Due to slow response of authorities, the consequences of this policy are felt to this day.

In 2015, the United Nations Special Rapporteur on the right to adequate housing, Ms Farha, issued a very harsh statement on the state of housing in Serbia. She insisted that Serbia urgently needs a national law on housing that fosters non-discrimination and inclusion and that it complies with its international human rights obligations. She called Roma housing conditions 'egregious' and condemned the fact that they continue to be targeted for eviction with its devastating consequences. According to the Rapporteur, allowing this to continue exacerbates discrimination, stigmatisation and exclusion. According to a report, around 3 000 Roma were evicted from informal settlements in Serbia between 2009 and 2013, mainly for the purpose of "urban regeneration".

Serbia does not have a homelessness strategy. Still there are national strategies and programmes that tend to address the multidimensional needs of vulnerable groups with emphasis on housing, employment and social inclusion. The issue of homelessness itself is still neither defined nor explored. As a starting point for the overall approach to the homelessness the 2011 Census, for the first time, included the data on homeless people living in Serbia.

While the Census enumerated 445 primary and 17 842 secondary homelessness, the true numbers are significantly higher. The Census registered 445 primary homeless persons (those living without any address, sleeping outside without any shelters) in Serbia, out of which 442 in urban dwellings. It is clear that the Census was able to capture only some homeless people in cities in which most shelters and social care institutions are to be found. However, according to Census, the population of secondary homeless is far larger. In 2011 there were 17 842 persons in that status, out of which 63.1% lived in urban dwellings. By the region, most lived in the City of Belgrade, 39%, then in Šumadija and Western Serbia (25.5%) and the least in South-Eastern Serbia (21.8%).

The number of homeless persons in Belgrade was estimated at between 1 000 and 2 000 in 2019 by the head of the capital city's Social Security Secretariat. The official estimated that it was not a large number and therefore urged these people to turn to for help because the Secretariat could help them. According to this official, most homeless people in Belgrade are not registered because they have not sought the help they are entitled to. Homeless people, once they obtain an ID card, which they can get even without having a permanent residence, are entitled to one-time assistance, emergency assistance, a meal in the soup kitchens and the right to stay in social welfare institutions. During the winter of 2018/2019, 376 people were housed in the Shelter for the Elderly and Adults.

2.3.10 Access to essential services

Serbia has significant problems in the provision of safe water and sanitation for its population. According to data by the Institute for Health Metrics and Evaluation (IHME), in 2018, 9.3% of Serbian population was exposed to unsafe drinking water. The picture painted by the World Economic Forum's Global Competitiveness Report is somewhat more favourable - the reliability of water supply index in Serbia in 2018 was 5.2 (1-7 (7 = best)). In 2015, only 24% of people were using safely managed sanitation services, compared to 29% fifteen years ago. According to the Institute for Public Health 'Batut', out of 154 public water supply systems in Serbian towns, 94 (or 61%) have 'satisfying' quality of drinking water, meaning that they had less than 5% microbiological and less than 20% of chemical water samples on an annual basis.

Access to electricity is universal, but not everyone can afford it. The percentage of the population with access to electricity in 2016 according to the International Energy Agency estimates is 100% - but according to some estimates at any given moment between 25 000 and 50 000 households are without electricity – either because they do not have access (which is still the case in some small remote villages) or because their electricity supply was cut off because of payment arrears.

Serbia's energy system is inefficient with high ratio of energy consumed to real GDP. A cross-regional comparison shows that the efficiency of Serbian energy system is one of the lowest, and energy intensity is amongst the highest (the ratio of energy consumed to real GDP), which is a result of energy intensive industries, energy-inefficient technologies used in households, industry and energy sectors, poorly-insulated buildings, and comparatively low energy prices. In recent years, Serbia has managed to reduce final energy consumption by 1% yearly, in that way barely fulfilling the commitment stemming from its membership in Energy Community. The building sector has a huge potential for energy savings and has been identified as one of the most important in the area of energy efficiency improvement in Serbia. The biggest challenge will be to reduce energy consumption in residential buildings that account for 75% of all buildings. Between 2012 (when energy passports were introduced for the first time) and April 2019, Serbia issued the total of 3125 energy passports for new and old renovated buildings. Data from SILC 2013 show that 18.3% of respondents in Serbia live in households unable to keep their home adequately warm, and as many as approximately 37% of households have arrears on their utility bills, which is more than the EU average (Bajic and Petric, 2015).

The economy adopted regulations, performed the typology of residential buildings and trained experts in this field, which served as the basis for the introduction of Central Register of Energy Passports (CREP). CREP is a software system in which energy efficient engineers enter data on energy certification of buildings and which allows monitoring the improvement of energy efficiency in buildings as well as sources of financing in this area. CREP is also a register of licensed energy efficiency engineers and organisations authorised to issue energy passports.

All new buildings, those that are being reconstructed, repaired, or energy renovated, need an energy passport containing all the data on energy properties of the building. From 2015 to the beginning of 2017, more than 400 energy passports have been entered in the Register.

Serbia has solid transport networks and services, but train services are relatively poor. The World Economic Forum's Global Competitiveness Report ranks Serbia at 19th place of 140 economies according to the kilometres of railroad per 1 000 square kilometres of land, with railroad density (km of roads/square km) of 43.1. However, Serbia ranks far lower, at 87th place, according the efficiency of train services. In the airport connectivity index measuring the degree of integration of an economy within the global air transport network in 2018, Serbia ranks at 76th place.

Access to financial services is far from universal, especially for the lower educated and young citizens. By the criterion of the percentage of citizens with bank accounts (62%), Serbia comes close to the regional average, but lags behind developed economies, where the figure is nearly 100%. According to a World Bank research, the highest risk of financial exclusion in Serbia is faced by youth and those with low educational attainment, the rural population and the poorest 40% of the population face "medium" risk, while those with higher education, the richest 60% and the urban population fare considerably better. A positive aspect is that women are equal to men, and in this respect, Serbia is among the most successful economies in the region. By the criterion of obtaining credit from a financial institution, women in Serbia are even at an advantage compared to men. The financial infrastructure is underdeveloped in Serbia. For example, the number of branch offices per 100 thousand people is the smallest in the region, while only Bosnia and

Herzegovina has a smaller number of ATMs per 100 thousand people (Golicin and Nenadovic, 2015).

Digital skills are moderately developed. Individuals' level of digital skills indicator for Serbia was 46 in 2018, 39 in 2016 and 32 in 2014. In the EU this number was 56 in 2016. According to the Global Competitiveness Report (based on the International Telecommunications Union data for 2016) in 2018 67.1% of Serbian population had access to the internet, ranking Serbia at 57th place of 140 economies observed, while in the same year there were 124 mobile subscriptions per 100 citizens (55th position).

The vast majority of households use mobile phones, and over 70% use computers. According to SORS (2018) data 93% of households owned a mobile phone in 2018, 47.6% owned a laptop, and 68.1% of households in Serbia had a computer, which is an increase of 2.3% and 3.7% in relation to 2016 and 2015, respectively. The percentage of computers in households varies as to the territory: in Belgrade it amounts to 77.8%, in Vojvodina 66.2%, and in Central Serbia 65.3%. According to the same report and based on the E-Participation Index which measures use of online services to facilitate the provision of information by governments to citizens⁶ Serbia recorded a value of 0.81 (1 = best) ranking at 47th place. According to SORS, in 2018, 72.1% of households in Serbia had computer (46.8% in 2009), and 72.9% had internet connection (36.7% in 2009).

⁶ United Nations, Department of Economic and Social Affairs (UNDESA)

3 Conclusion

In most of the reviewed policies and principles that are part of the European Pillar of Social Rights, Serbia performs poorly relative to European Union standards. While in some areas this assessment is expected and in a certain way unavoidable, since Serbia is poorer than any one of the EU Member States, in some other fields that are less dependent on the level of national income, such as those closely related to social protection, equality and exercise of basic human rights, it is less justifiable. Serbia's shares of public revenues and public expenditure in GDP are quite close to the EU average, and consequently its performance with regard to social inclusion, social protection, income equality and poverty alleviation could be significantly improved by re-orientating of policy priorities and reshuffling of the existing tax-benefit system.

In the field of equal opportunities and access to labour market, Serbia performs below average. Education is generally inclusive and of good quality, but some groups are left behind, especially children with Roma background and children with disabilities. The gender gap in the labour market is reflected in the first place in above-average gender employment gap, while the gender pay gap is lower than average. The equal opportunity principle enshrined in the Constitution is challenged daily in practice on the grounds of gender, age, disability status, sexual orientation, ethnic affiliation etc., however the public awareness campaigns and establishment and activities of independent protection bodies have brought about some improvements in this field. Active support for employment is limited due to insufficient funds available, but also because of the insufficient orientation of active labour market policy to support the most vulnerable groups in the labour market.

The recent reduction of workers' rights has quite likely gone too far. While amendments to the Labour Law in 2014 shifted the pendulum from 'secure' toward 'adaptable' employment, it is debatable if this has been an overall improvement or not. The Labour Law reform has not reduced the discrepancy in rights between the open-ended employment contracts and other forms of employment and work. Precarious work remains a serious problem. Changes in the law have not tackled the roots of informal employment. The lowering of the rights of the workers has also had its direct monetary effects that, coupled with the reduction of public sector wages within the Programme of Fiscal Consolidation, brought about a divergence of already very low levels of real and nominal wages from the EU average that has only recently started to be tackled. Social dialogue is underdeveloped, conflictual and not genuinely supported by the most powerful actor of industrial relations, the Government. Overall, while recent reforms have favoured employers rather than employees, the exogenous improvement in labour market situation and increasing emigration of the labour force suggests that the balance of power is gradually shifting toward workers.

The field of social protection and social inclusion is the most problematic of all. The situation is critical in most areas. Support to children and families with children is quite austere and sometimes unjust, as well as ineffective in lifting almost a third of all children above the risk of poverty. Access to social protection for workers outside of employment contracts is very limited. The only true minimum income programme, financial social assistance, has good targeting but the amounts are too small and coverage incomplete to have a more pronounced impact on poverty reduction. Poor people in rural areas are often denied financial social assistance due to rigid asset testing rules. The pension system generates extensive intergenerational and within-generational inequalities and is highly regressive in its character, implying transfers from future generations of pensioners to current ones, as well as large transfers from non-participants to participants in the pension insurance scheme. These inequities should be remedied by the introduction of universal pensions financed by general government revenues that are at the moment used to top-up current pay-as-you-go pensions.

To sum up, the social protection system, while in some areas supporting inclusion, reducing poverty and enhancing equality, in other areas fails to do so and sometimes reinforces inequality and exclusion. This appears to be the most pressing problem facing the challenging field of social rights in Serbia. Closely connected to it is the issue of labour and employment rights and the failure of narrowly understood employment and social policy to address precarity and informality in the labour market. Measures that have the potential to increase employment, such as reduction of very high social insurance contribution rates, which would be welcomed by both employees and employers, are currently both beyond interest and reach of policymakers. A critical rethinking of the ways and means to achieve a more inclusive society and more integrated labour market within a broad dialogue involving social partners, the academic community and civil society is urgently needed. This dialogue should be inspired and guided, in light of the European integration perspective of Serbia, by the principles enshrined in the European Pillar of Social Rights.

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