



# **Mutual Learning Programme**

DG Employment, Social Affairs and Inclusion

**Peer Country Comments Paper –Serbia**

## **Between medical and social model of disability**

**Peer Review on 'Work-capacity assessment and employment of persons with disabilities'**

**Riga (Latvia), 26-27 April 2018**



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## **1 Introduction**

This paper has been prepared for the Peer Review on "Work-Capacity Assessment for Persons with Disabilities" within the framework of the Mutual Learning Programme. It provides a comparative assessment of the policy example of the host country and the situation in the Republic of Serbia. For information on the host country policy example, please refer to the Host Country Discussion Paper. This paper consists of four chapters. First, labour market situation in the Republic of Serbia is presented, with special emphasis on the position of persons with disabilities and current disability assessment system. In the following chapters, comparative analysis on policy measures in Latvia and Serbia has been briefly elaborated, including assessment of success factors and transferability. Finally, the last chapter contains several questions related to the Host Country's newly introduced policy measures.

## **2 Labour market situation in the peer country**

### **2.1 General national labour market context**

The general situation in the labour market in Serbia, according to the Labour Force Survey data for 2017, indicates an improvement in relation to 2016. Activity and employment rates increased, while unemployment and inactivity decreased. Also, the main indicators of the labour market for young people show an increase in employment and a reduction in unemployment. At the same time, differences between regions (employment and unemployment rates) have been reduced. The 2017 data for the population aged 15 and over is as follows: activity rate - 54%, employment rate - 46.7%, and unemployment rate - 13.5%. Despite the mentioned improvements, situation in the labour market in Serbia is still unsatisfying, especially for some marginalised social groups, such as persons with disabilities, Roma minority, young and older citizens (Commissioner for Protection of Equality, 2016 and 2017).

### **2.2 Position of persons with disabilities in the labour market**

Despite the significant progress in advancing antidiscrimination legislation during the last decade in Serbia, the economic and social status of persons with disabilities (hereinafter: PWD), including their position in the labour market, remains unequal compared to the general population (Commissioner for Protection of Equality, 2016). Thus, further progress is needed both in the active labour market policies and the social welfare system reforms (IPA II, 2014). There is no comprehensive official data on disability and employment. According to the 2011 Census, 12.4% of the total PWD population was economically active, and 9% was in employment (Markovic, 2016). Hence, the National Employment Strategy for the period 2011-2020 recognised PWD as especially vulnerable group in the labour market<sup>1</sup>. The total number of unemployed PWD registered with the National Employment Service (hereinafter: NES)<sup>2</sup>, as of 31 December 2017, was 15 416 persons (of which 6 037 were women), and the most represented are PWD with a secondary education level (54%). Also, there are companies for professional rehabilitation and employment of PWD, legal entities which employ and conduct professional rehabilitation of PWD.<sup>3</sup> Data for 2017 showed that 51 companies for the professional rehabilitation and employment of PWD were operational<sup>4</sup>, employing

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<sup>1</sup> Other vulnerable groups are Roma national minority, refugees and internally displaced persons, people living in rural areas, uneducated persons, women, youth (15-24 years), older persons (50-64 years), etc.

<sup>2</sup> PWD who are actively looking for work, that is, they are ready and able to immediately engage in active employment policy measures. Annual Report of the NES for 2017

<sup>3</sup> According to the Law, they may be founded by the Republic of Serbia, autonomous province, local government unit, company, association of PWD or any other legal or natural person, for the purposes of creation of new jobs and job placement of PWD.

<sup>4</sup> Company for professional rehabilitation and employment of PWDs may carry out its activities, providing that it has: 1) at least five PWD permanently employed; 2) at least 50% temporary employed PWD in the total number of employees; out of which at least 10% of PWD who can be employed only under special conditions;

1 261 PWD, which accounted for 67% of the total number of 1 881 employed persons in those companies.<sup>5</sup> Those companies enjoy significant regular benefits and support from the line ministry (i.e. monthly salary subsidy, funds for improvement of working conditions, etc).

## 2.3 Work-capacity assessment

The legal system of the Republic of Serbia does not have a single, comprehensive definition of disability, i.e. disability is defined differently in different laws. According to the Law on Professional Rehabilitation and Employment of Persons with Disabilities (2013) assessment of work capacity includes medical, social and other criteria establishing the possibilities and capabilities of PWD necessary for inclusion in the labour market and performance of concrete work independently or with the assistance of support service and the use of technical aid i.e. the possibility of employment under general and special conditions. However, definition of disability is not in a line with social model of disability<sup>6</sup> and assessment is conducted by the assessment body of the organisation in charge of pension and disability insurance issues<sup>7</sup>; hence it is still based on medical model, mainly due to the fact that two medical doctors are assessing PWD in the first instance procedure, and three in the second instance procedure. The final assessment is determined through the four-level scale:

Assessment criteria		Persons assessed in 2017
<b>Level 0</b>	the difficulties and obstacles are minor and do not affect the working capacity, thus the person does not have PWD status according to the Law	196
<b>Level 1</b>	the difficulties and obstacles are small and affect the working capacity in relation to profession and jobs that a person can perform, so the employment is possible under general conditions	4680
<b>Level 2</b>	the difficulties and obstacles are moderate or substantial and affect the working capacity in relation to profession and jobs that a person can perform, so the employment is possible under special conditions	185
<b>Level 3</b>	the difficulties and obstacles are complete or multiple, and affect the working capacity to a measure that performance is less than one third of performance of the employee in a normal workplace, thus such person could not be employed or hold an employment neither under general nor special conditions	355

3) the adequate space and technical and other equipment for vocational training and work of PWD; 4) employs professionals for vocational training and rehabilitation of PWDs if the enterprise employs more than 20 PWD or outsources professionals if the enterprise employs less than 20 PWD, as follows: one person carrying out practical training for activities for which PWD are being trained; one person for provision of professional assistance to the employed PWD, and one person – workplace integration consultant; 5) it is licensed for carrying on the business activity.

<sup>5</sup> Data obtained from the interview with the representative of the Ministry for Labour, Employment, Veterans and Social Policy. Interview conducted on 26 March 2018.

<sup>6</sup> Article 3: For the purposes of this law, a person with disabilities shall be the person suffering permanent consequences of bodily, sensory, mental and psychiatric impairment or sickness which cannot be eliminated by any treatment or medical rehabilitation and faced with social and other limitations affecting his/her working capacity and possibility to find or retain employment and who does not have the possibilities or has reduced possibilities to be included in the labour market or apply for employment on equal terms with other persons

<sup>7</sup> The Commission of Expert Authority, which is established by the Republic Pension and Disabilities Insurance Fund.

Work-capacity assessment is not mandatory for PWD, but it is a requirement for eligibility to use different support measures provided by the NES for PWD, as well as for disability pension. Average age of PWD granted disability pension in 2016 was 56 for men and 53 for women, while average age of persons granted old-age pension was 64 for men and 61 for women (Disability Insurance Fund, 2017). The main actors in work-capacity assessment are the NES and the Commission of Expert Authority of the Republic Pension and Disability Insurance Fund, which does not cooperate regularly except for the assessment.

### **3 Assessment of the policy measure**

In the Host Country Discussion Paper for Latvia, two new policy measures have been presented and explained, namely Support person at work for unemployed with mental health issues, and Motivational programmes for job search and social mentor service for long-term unemployed persons with disabilities. Therefore, this chapter of the peer assessment is structured accordingly.

#### **3.1 Support person at work for unemployed with mental health issues**

One of the new policy measures in Latvia is a support person at the workplace whose job is to help unemployed persons with mental health issues to integrate into the workplace and adhere to the rules of work and duties. This is a very good measure, since persons with mental health issues are usually stigmatized and discriminated against, especially in the context of employment. However, there is not enough data in the Host Country Discussion Paper which would clearly explain why this measure has been established for persons with mental health issues only, having in mind that the majority of persons with intellectual and psychosocial disabilities need some level of support in the open labour market. Also, it is not explained why this support is available for 12 months, that is to say why the support is not individualized, since some persons with mental health issues may need longer support, while for the others 12 months may be sufficient. Possibility to apply to the support person for a free consultation on the successful continuation of the employment, after the expiration of the measure implementation period, could be beneficial for both the employer and the person with mental health issues. On the other hand, it is not clear what would happen with the person with mental health issues who needs further employment support. In addition, some concerns may be raised regarding the availability of support persons and their willingness to apply for the said job, given that support person must have appropriate education in the fields of health care, social care, social rehabilitation, social work, pedagogy or psychology, while it is prescribed that the cost of the service may not exceed EUR 4.50 per hour (Calite-Bordane, 2018).

Before the analysis of similarity/differences between existing policy measures for PWD in Latvia and Serbia, a brief overview of Serbia's policy measures for employment of PWD will be presented. The Law on Professional Rehabilitation and Employment of Persons with Disabilities introduced affirmative action in terms of inclusion of PWDs in the labour market, including the obligation for all employers with 20-49 employees to employ at least one PWD, whereas employers with more than 50 employees have to employ at least two PWDs plus one additional person for each 50 new employees. This Law established the Budget Fund for professional rehabilitation and employment promotion of PWD. Income of the Fund comes from the Republic budget and from the other resources, as employers that do not employ PWDs are obliged to pay 50% of the average income in Serbia, for each PWD that they did not employ. Programmes and measures regarding PWDs are financed from this Fund, based on annual plans, and are allocated to the NES for activities and active labour market programmes<sup>8</sup>, and to the

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<sup>8</sup> Such as active job search, vocational education and training, subsidies for employment of PWD, etc.



competent ministry for different support measures<sup>9</sup>. There is no special support for persons with mental health issues in Serbia. All policy measures for PWD are meant for each and every PWD who seeks a job or wants to maintain a current job. The NES offers wide range of different policy measures, and the most similar to Latvia's support person at the workplace for persons with mental health issues is a support known as 'work assistant'. According to the National Action Employment Plan for 2018, one of the support measures for PWD is providing professional support to a newly employed PWD (working assistance when entering into work or at the workplace) by refunding the employer of the salary costs for a person engaged in providing professional support of up to RSD 50,000.00 per month (approx. EUR 416) for a full fund of working hours or in proportion to the number of working hours provided professional support to a PWD on a monthly basis, increased by the related tax and contributions for compulsory social security, for up to 12 months. However, a lot of employers are not aware of the existence of this measure. For example, only 13 working assistants were hired in the course of 2017 (NES, 2017). Although this measure was introduced in 2011, there is no available analysis of the effects of the support measures, especially having in mind that duration of the measure is only 12 months.

### **3.2 Motivational programmes for job search and social mentor services for long-term unemployed persons with disabilities**

The second presented policy measure in Latvia is a motivation programme for job search and social mentor services for long-term unemployed PWD. It is very important that NGOs representing PWD were consulted, since they have better insights in specific needs PWD might have in relation to employment. Also, it is a good approach to have smaller groups of people if some of them have mental health issues, it enables both social mentors and PWD included in the programme to have more time for individual needs and concerns of every person in the group. As with the first measure, it is not clear why are persons with mental health issues 'separated' from other PWD that might need similar support. In Serbia, there are several support measures that could be compared to this one. However, they are not the same, and social mentor services are provided neither in the same nor in similar manner. The NES organizes trainings for active job search, job clubs (two weeks), trainings for acquiring practical knowledge, etc. Those measures have general character, meaning that any unemployed person is eligible to participate, including PWD. Once a year, there is a special motivational training for active job search exclusively for PWD. This includes training for enhancing motivation of PWD for active involvement in the labour market, as well as psychological support. More than 4,000 PWD participated in measures for active job seeking in 2017 (NES, 2017). However, no evaluation of the effects of those measures is available until now.

### **3.3 Assessment of future progression policy development**

It is not easy to discuss whether success factors could be applied and transferred in Serbia, due to the fact that measures have just been introduced and not yet evaluated. There is also no information about the number of people benefiting from motivational programmes for job search and social mentor services for long-term unemployed PWD or an indication of the number of those unemployed with mental health issues having a support person at work. In the Host Country Discussion Paper, close cooperation between the Ministry of Welfare and NGOs has been marked as a transferable success factor. Cooperation between different public authorities and NGOs is always very beneficial for both sides, since different actors are familiar with different aspects of existing challenges and problems. Similarly to the Latvian example, disability persons' organizations, as well as other NGOs dealing with human rights and non-discrimination

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<sup>9</sup> Support measures to the enterprises for professional rehabilitation and employment of PWD (i.e. subsidies for PWDs' salaries), employment of professionals for vocational training and rehabilitation of PWD, transportation expenses for PWD and professionals for vocational training and rehabilitation of PWD, improvement of working conditions and production programmes, adjustment of workplaces, etc.

of marginalized groups are very often consulted in policymaking related to persons with disabilities. Representatives of larger and more influential organizations participate in drafting policies, strategies and laws on rights of PWD, which might cause exclusion of smaller and less influential organizations, especially those dealing with women and/or children with disabilities. However, closer cooperation with PWD would be beneficial in regard to better planning and creation of more appropriate support measure, inter alia, for labour market and enhancing their chances for adequate employment. Hence, the model of cooperation between public authorities and NGOs could be applied and transferred to Serbia, so that PWD and their organization, as well as other NGO that promote and protect the rights of different excluded groups are more involved in the creation of concrete innovative support measures based on the needs of PWD.

Both new measures, as stated previously, are applicable in Serbia. As regards a support person at work for unemployed with mental health issues, no changes are needed. If persons with mental health issues have to be specifically targeted, it would be necessary to state that fact in the public call for work assistance – existing support that any PWD can use if needed. Although there is not the same measure as in Latvia, it could be said that situation is similar with motivational programmes for job search and social mentor services for long-term unemployed persons with disabilities, meaning that combination of existing support measures in Serbia could lead to the same effects and results.

Finally, regarding changes in the disability assessment it is very hard to assess the usefulness and effectiveness of those changes, due to the fact that changes are small, and should be evaluated in the forthcoming period. Although it is commendable that Latvia recognized both the need and obligation to align its legal framework with the CRPD, stating that the essence of these amendments was to start a 'gradual transition from a purely medical approach of disability assessment to a social approach, laying a greater emphasis on the severity of functional disorders, not just on a particular disease (diagnosis)' (Calite-Bordane, 2018), it could be argued that the assessment of the loss of work-capacity is still based on medical model only. It would be much better to assess PWD's support needs in each individual case, and not the degree of the loss of work-capacity.

## **4 Questions**

Host Country Discussion Paper is very comprehensive and elaborates very well new policy measures introduced in order to advance the position of persons with disabilities in the labour market in Latvia. However, some further explanation and clarification are needed for better understanding of the national context.

- How do you ensure that a person with disability remains employed after the expiration of the measure?
- Do you plan to align your legislation with the CRPD requirements in regard to the social model of disability, bearing in mind that the work capacity is still assessed by the Medical Commission? If yes, could you please elaborate how?
- Why do you have a special measure for persons with mental health issues? Is this measure based on some research/needs assessment?
- Is this measure also available for persons with intellectual disabilities? If not, do you have any measure for them?
- In many countries persons with disabilities are still at risk of deprivation of legal capacity. What is the current situation in Latvia? Is there a procedure for deprivation of legal capacity? If yes, please explain whether person deprived of legal capacity has work capacity (i.e. can that person work).

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## Annex 1 Summary table

The main points covered by the paper are summarised below.

### Labour market situation in the peer country

- The general situation in the labour market in Serbia in 2017 indicates an improvement in relation to 2016. Activity and employment rates increased, while unemployment and inactivity rates decreased.
- Despite the improvements, situation in the labour market in Serbia is still unsatisfying, especially for PWD and other marginalised social groups.
- Economic and social status of PWD, including their position in the labour market, remains unequal compared to general population. Further progress is needed both in the active labour market policies and the social welfare system reforms.
- There is no comprehensive official data on disability and employment.
- Work-capacity assessment is not mandatory for PWD, but it is a requirement for eligibility to use different support measures provided by the NES for PWD.

### Assessment of the policy measure

- Support person at the workplace for unemployed persons with mental health issues – very good measure, since persons with mental health issues are usually stigmatized and discriminated against, especially in the context of employment.
- Concerns – availability of support persons and their willingness to apply for this job due to the required level of education and prescribed cost of the service.
- Motivation programme for job search and social mentor services for long-term unemployed PWD – good approach to have smaller groups of people if some of them have mental health issues, it enables both social mentors and PWD included in the programme to have more time for individual needs and concerns of every person in the group.
- It is not clear why persons with mental health issues have special support measures.
- Cooperation between different public authorities and NGOs is very beneficial for both sides.

### Questions

- How do you ensure that PWD remain employed after the expiration of the measure?
- Do you plan to align your legislation with the CRPD requirements in regard to the social model of disability, bearing in mind that the work capacity is still assessed by the Medical Commission? If yes, could you please elaborate how?
- Why do you have a special measure for persons with mental health issues? Is this measure based on some research/needs assessment?
- Is this measure also available for persons with intellectual disabilities? If not, do you have any measure for them?
- In many countries persons with disabilities are still at risk of deprivation of legal capacity. What is the current situation in Latvia? Is there a procedure for deprivation of legal capacity? If yes, please explain whether person deprived of legal capacity has work capacity (i.e. can that person work).

## Annex 2 Example of relevant practice

Name of the practice:	Training for active job search
Year of implementation:	2009 – ongoing
Coordinating authority:	National Employment Service
Objectives:	Increasing the employability and motivation of job seekers PWD through the development of skills in active job search
Main activities:	Trainings for active job search are usually targeted as a direct complement to basic job counselling, such as skill assessment, CV drafting, interview techniques, individual action plans, job clubs, etc.
Results so far:	Number of PWD trained for active job search: 2009 – 349 2010 – 310 2011 – 1,150 2012 – 1,399 2013 – 1,185 2014 – 1,576 2015 – 1,501 2016 – 1,402 2017 – 1,470

