

# Screening report

## Serbia

### Chapter 19 – Social policy and employment

**Date of screening meetings:**

Explanatory meeting: 10–12 February 2014

Bilateral meeting: 24–26 June 2014

## **I. CHAPTER CONTENT**

On the basis of Article 153 of the Treaty on the Functioning of the European Union (TFEU), the Union supports and complements the activities of the Member States in the area of social policy.

The *acquis* in the social policy field includes minimum standards in areas such as labour law, equal treatment of women and men in employment and social security, as well as health and safety at work. Specific binding rules have also been developed with respect to non-discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 19 of TFEU).

The European Social Fund (ESF) is the main financial tool through which the EU supports the implementation of its Employment Strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 22 “Regional policy and coordination of structural instruments” which deals with all structural instruments).

The Member States participate in EU policy processes in the areas of employment policy, social inclusion and social protection. The social partners from the Member States participate via EU-level associations of social partners in social dialogue at the European level. The Treaty on the Functioning of the European Union (Articles 153-155) provides for consultation of the social partners and possible negotiation of agreements in the fields mentioned in Art. 153 of the TFEU.

Furthermore, Chapter 19 focuses on the functioning of social dialogue, in particular the general legal framework on trade unions and employer organisations, right to form/join unions, to collective bargaining and to industrial action, right to strike, tripartite consultation mechanisms, including economic and social councils, bipartite social dialogue/collective agreements and the involvement of social partners in the design and implementation of legislation. Chapter 23 “Judiciary and Fundamental Rights” covers the freedom of assembly and association from a broader fundamental rights perspective.

Aspects other than employment and social policies relating to non-discrimination and equality between women and men are covered by Chapter 23: Judiciary and fundamental rights.

In the field of disability, the EU is a party to the UN Convention on the Rights of Persons with Disabilities, and has adopted a strategy aimed at mainstreaming disability issues into relevant Union policies and at enhancing the inclusion and participation of people with disabilities on an equal basis with others.

International agreements related to employment, labour and social issues, such as the relevant ILO Conventions and the UN Convention on the Rights of People with disabilities, need to be taken into consideration.

## **II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY**

This part summarises both the information provided by Serbia and the discussion at the screening meetings. Serbia indicated that it can accept the *acquis* regarding social policy and employment and that it does not expect any difficulties to implement the *acquis* by the time of accession.

## II.a. Labour law

Serbia stated that its legislation – in particular the 2005 Labour Law (last amended in July 2014 through an urgent procedure) – covers several basic principles laid down by the *acquis*. The Labour Law applies to all employees, unless otherwise provided for under specific legislation (state administration, autonomous province and local government law, public services law and transport law). It is directly enforceable, providing the legal framework, inter alia, for contracts of employment, company-level agreements and collective agreements. The law guarantees a minimum level of protection of basic rights of employees and regulates a number of conditions of work and pay such as the minimum working age, prohibition of discrimination, protection of employees, maximum working hours, daily rest periods, minimum annual leave, etc. It also recognises the right to information and consultation at national level and to protection in case of collective redundancies or transfer of an enterprise. Adoption of the amended Labour Law is part of the overall economic reforms in Serbia. However, as the Law is not fully aligned with the *acquis*, the Government has established two working groups that are analysing the Labour Law and other relevant legislative provisions for further alignment with the *acquis* and other international labour standards and working on a new Law which is expected to be adopted in 2016. Employees of State bodies are covered by the Law on Civil Servants adopted in 2006. As regards working time, full working time in Serbia equals 40 hours per working week. Part-time work is defined as work shorter than full time and reduced working hours (due to harder working conditions in high-risk jobs) are up to 10 hours a week. Overtime cannot last for more than eight hours per week or four hours a day per employee. Daily breaks and daily rest are regulated, as required by the *acquis*. Daily breaks must last at least 30 minutes (for full-time employees), daily rest at least 12 consecutive hours and weekly rest at least 24 consecutive hours (used on Sunday, as a rule). Annual leave is at least 20 working days in a calendar year.<sup>1</sup> Unspent annual leave cannot be transferred to a new employer.

Serbia indicated that working hours for mobile workers in civil aviation are regulated in a Rulebook on the organisation of crew members' duty time adopted in 2010. Working hours for seafarers and workers on board fishing vessels are regulated by the Law on Maritime Navigation adopted in 2013 as well as by the relevant Rulebooks. Full alignment with the *acquis* is foreseen for 2016. Serbia indicated that the 2013 Law on Railway Safety and Inter-operability contains provisions on working hours for workers engaged in inter-operable cross-border traffic in the railway sector. Full alignment with the *acquis* in this area is foreseen for 2017.

As regards working conditions (other than working time), Serbia stated that employment is established by a written employment contract which is concluded for an indefinite or fixed-term period. Fixed-term contracts shall not be prolonged beyond 24 months with or without interruptions except in the case of employees working at artistic, organisational or technical posts in cultural institutions where the maximum duration of a fixed-term contract is three years with a possibility of renewal. Employment contracts may be concluded for full time or part-time work. There is a general prohibition to employ a person younger than 15, as required by the *acquis*. Overtime work and night work are prohibited for minors, except in some specific cases. Full time working hours for minors shall not exceed 35 hours per week or eight hours per day. Annual leave for minors is at least 20 working days.

Serbia indicated that temporary agency work is not regulated in Serbia. Only the registered employment agencies are allowed to provide placement services and/or services of job matching

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<sup>1</sup> Directive 2003/88/EC concerning certain aspects of the organisation of the working time provides for a paid annual leave of at least four weeks.

in the country and internationally. Serbia stated that a legal framework covering this subject is foreseen to be established in the future.

Serbia indicated that a Law on posting of workers is under preparation. The Labour Law contains provisions with regard to information and consultation of workers, notably in the cases of collective redundancies and transfers of undertakings. Any changes in this respect need to be notified to the representative trade union of the employees 15 days beforehand at the latest. Employees' rights remain the same in the event of the termination of a labour contract individually and termination through collective dismissal. In the case of transfer of undertakings the new employer needs to assume all obligations arising from the employment contracts of the transferred workers. As regards employer's insolvency, a Solidarity Fund was set up in 2005 to serve as the Guarantee Fund required by the *acquis*.

Serbia indicated that the Labour Law provides that employees of an employer who has more than 50 employees may set up a works council. However, there is no more detailed legal framework for establishment of such works councils. There is no Serbian legislation regulating either the establishment of European Works Councils or the involvement of workers in European companies and European cooperative societies. Serbia stated that discussions on further legal alignment with the *acquis* are ongoing.

As regards administrative capacity, the main administrative body is the Ministry of Labour, Employment, Veterans and Social Affairs (MoLEVSA) and in particular its Labour Department where there are currently 12 civil servants out of envisaged 14. Six staff are currently dealing with alignment and implementation of the *acquis*. The Labour Inspectorate, an administrative body of the same Ministry, deals also with labour relations. The number of labour inspectors at the Labour Inspectorate is currently 238. There are no specialised labour courts in Serbia. A Law on Peaceful Settlement of Labour Disputes was adopted in 2004 establishing an Agency for Peaceful Settlement of Labour Disputes where there are seven staff in charge of field-specific and technical tasks related to peaceful resolution of labour disputes and individual disputes.

## **II.b. Health and safety at work**

Serbia indicated that the central piece of legislation in the area of health and safety at work is the 2005 Law on health and safety at work which covers both public and private sectors. According to this Law, the employer is responsible for the organisation and implementation of safety at work measures in all situations and notably, that a risk assessment needs to be adopted for determining *inter alia* the way and measures to remove risks, as required by the *acquis*. Training in the area of health and safety at work as well as medical check-ups of employees are provided for by the Law. Serbia stated that at least three representatives of employees can form a Board for safety and health at work. The employer who has 50 or more employees shall appoint at least one representative in the Board. However, Serbia indicated that implementation of risk assessment continues to be a challenge for employers.

Serbia stated that the 2005 Law on health and safety at work is currently under revision and foreseen to be amended in 2015. Further amendments are foreseen until 2018, except for the area of mineral-extracting industries where full alignment is foreseen only after 2019 when implementation of the current legislation will be reviewed.

According to Serbia, a number of implementing regulations have been also adopted covering areas such as personal protective equipment, manual handling of loads, work on construction sites, exposure to chemical substances and asbestos, display screen equipment and risk assessment procedures. A number of Rulebooks adopted in the former Socialist Federal Republic of Yugoslavia are still in force in certain industries. In relation to minimum safety and health

requirements for work on board fishing vessels, Serbia indicated that these are regulated in the Law on Maritime Navigation and in the related Decrees. The minimum safety and health requirements at temporary or mobile construction sites are regulated in the Law on Planning and Construction, particularly in the Decree on safety and health at work at temporary and mobile construction sites which is fully applicable since July 2011. Serbia indicated that 50 % of the injuries occur in the construction sector. Other high-risk sectors are industry and agriculture. In general, a major problem is the non-application of the legislation on health and safety at work. However, the total number of fatal, grave injuries at work with a fatal outcome and collective injuries at work fell by 25 % between May 2014 and February 2015 in comparison with the same period of the previous year.

Serbia indicated that a new Strategy on Health and Safety at Work for 2013–2017 was adopted in November 2013 and the accompanying Action plan in July 2014. Its overall objective is to improve and preserve the health of the economically active population by improving working conditions and preventing and minimising work-related injuries and occupational diseases. The aim of the Strategy is to reduce injuries at work by 5 % within the reference period. Serbia stated that implementation of legislation has yielded good results, as the number of injuries and fatal accidents has been decreasing. A register for work-related injuries is under construction. There is currently no specific law, although in principle required by the Law on health and safety at work, on employers' obligation to insure all employees against work-related injuries and occupational and work-related diseases. Currently employees' medical costs are paid by the general Health Insurance Fund to which all employees contribute. There is no separate fund for work-related injuries and damage compensation has to go through normal court procedures, which takes a long time. Establishment of a working group in the MoLEVSA has been announced to work on insurance against work-related injuries.

As regards administrative capacity, the Occupational Safety and Health Directorate in the MoLEVSA is the main coordination body responsible for alignment with the *acquis* in this area. The Labour Inspectorate, an administrative body of the same Ministry, monitors implementation of health and safety at work legislation. The number of labour inspectors at the Labour Inspectorate is currently 238 which means that one labour inspector covers around 1 395 economic entities. There are 25 internal organisational units located in districts and in the City of Belgrade. Serbia stated that there is a need to increase the number of field-working labour inspectors in view of full implementation of the *acquis* in this area, however due to a ban on public service recruitment, this is currently not possible. However, Serbia also indicated that a better organisation of the work of the Labour Inspectorate has contributed to a better efficiency of inspections. Labour inspection activities have targeted high-risk economic activities, especially in relation to the fight against undeclared work. As a result, more people than before have entered into formal employment relations. The Labour Inspectorate is a member of the International Alliance of Labour Inspections. In addition, there is a Council for Health and Safety at Work (a provisional working party of the Government), an Occupational Health Institute in Belgrade, as well as occupational safety and health associations across Serbia. Serbia stated that an integral information system is necessary to increase efficiency of the work of the Labour Inspectorate; also more vehicles should be provided to help the Labour Inspectorate to become more mobile.

### **II.c. Social dialogue**

Serbia stated that social dialogue at tripartite level takes place within the Economic and Social Council which was established in 2001 and obtained a legal basis for its work in 2004 with the adoption of the Law on the Economic and Social Council. It is an independent body which, at central level, consists of 18 members: six representatives of the government (as a rule ministers), six representatives of recognised workers' organisations (currently two trade unions) and six

representatives of recognised employers' associations (currently one association). The Council considers a large range of issues, notably labour legislation, improvements in collective bargaining, the rights of employers and employees to organise themselves freely and employment, labour and social rights. The Council has established several working groups dealing with economic issues, legislation, negotiation and peaceful settlement of labour disputes and health and safety at work. Tripartite social dialogue has been hampered since autumn 2013 with the representative trade unions repeatedly withdrawing from the Working Group on the Labour Law. Furthermore, local Economic and Social Councils have been established in 18 municipalities, the target being 30 local socio-economic councils.

Serbia stated that representativeness criteria are defined in the Labour Law, and that two trade unions are recognised as representative at national level: the Confederation of Autonomous Trade Unions of Serbia (CATUS) and the Trade Union Confederation "Nezavisnost" (TUC). On the employers' side, there is one association, the Union of Employers of Serbia, which is recognised as representative according to the criteria set out in the law.

The 2008 General Collective Agreement expired in April 2011. Due to the economic crisis it had not been implemented and was replaced by a socio-economic agreement between the three parties in April 2011 following a number of protests in the public sector earlier in the year. This agreement commits all three signatories to respect rules aimed at maintaining macroeconomic stability while simultaneously providing for social cohesion. There were also 11 sectoral (branch) collective agreements in place, which were repealed in January 2015 following the adoption of the new Labour Law in July 2014. Consequently, new collective agreements would have to be negotiated. However, very few sector collective agreements in the private sector have so far been negotiated.

An Agency for Peaceful Settlement of Labour Disputes was established in 2004 where seven staff are in charge of field-specific and technical tasks related to peaceful resolution of labour disputes and individual disputes.

#### **II.d. Employment policy**

Serbia indicated that a National Employment Strategy 2011–2020 was adopted in 2011. The main goal of the Serbian employment policy is to establish efficient, stable and sustainable employment growth by 2020. Specifically the Strategy focuses on stimulating employment in the less developed regions and developing regional and local employment policies, enhancing human capital and greater social inclusion, improving labour market institutions and developing the labour market and reducing labour market duality. The 2015 national employment action plan was adopted in September 2014. Its focus is on youth, unemployed with low qualifications and workers made redundant from companies in restructuring. Also local employment action plans are developed annually that can be co-funded by the central budget for employment policy. So far, many of those that are co-funded by the Central government could not be fully implemented due to lack of funding. Serbia stated that revision of the National Employment Strategy 2011–2020 has started with the support of the World Bank. Serbia is also preparing its first Employment and Social Reform Programme (ESRP) with a view to identifying and addressing its key challenges in employment and social policies until 2020. The technical work on the ESRP has been completed and the document is pending adoption by the Government.

As regards the labour market situation, the participation and employment rates are improving but remain low (63.1% and 50.4% in 2014 for the age group 15-64 years) especially for women (employment rate at 43.6%), unemployment is decreasing but remains at a high 20.1% (2014). Youth unemployment (15–24 years old) starts declining but is still very high (47% in 2014) and the share of young people not in employment, education or training (NEET) is at 19.7% (Q4-

2014). Unemployment has a long-term character (long-term unemployment rate at 12.8% in 2014) and reflects substantial regional disparities in economic development. Despite the difficult labour market situation, brain drain is also perceived as a problem.

Serbia is implementing a wide range of active labour market programmes targeting the most vulnerable unemployed and is making special efforts to help jobless young people. Special focus is put on hard-to-place categories, such as youth up to 30 years of age, redundant workers or people over 50 years of age, unemployed people with no or low skills, etc. Job fairs have been organised since 2004. Measures to tackle youth unemployment have been taken over the years, although some of them have been discontinued due to lack of funds. A specific youth package has been introduced since 2013 *inter alia* to stimulate employers to employ young people. However, in 2013 and 2014, the implementation of the annual National employment actions plans were hampered by substantial (65 % and 80%) cuts in the budget earmarked for active labour market policies. Still both years, more than 90% of ALMP beneficiaries belonged to the hard-to-place target group, including Roma. Roma will continue to benefit from specific programmes in addition to regular active measures. In 2015, a significantly larger amount of funds are envisaged for the implementation of the active labour market measures; however, it is still below the allocation for 2012. The provisions for active employment policies continue to represent less than 0.1 % of GDP. ALMPs address only an estimated 14-15% of the registered unemployed. Also IPA assistance is provided to the National Employment Service (NES) for implementation of active employment policies. Serbia stated that administrative capacity to ensure better-targeted and efficient labour market policies is being further developed in the MoLEVSA, the NES and at local level. As regards adult education, both a strategy based on EU lifelong learning policy and an Adult Education Law are in place in Serbia.

Serbia has participated in the EU PROGRESS programme (Community programme for Employment and Social solidarity) since October 2007. Its participation has been positively assessed. In June 2015, Serbia has signed the agreement to participate in the new EU Programme for Employment and Social Innovation (EaSI).

According to Labour Force Survey, *informal employment* grew significantly, from 17.9 % in October 2012 to 23.2 % in Q4-2014. Serbia stated that there is no particular comprehensive approach on combating undeclared work. Fines are foreseen by the Labour Law for not signing a labour contract. Currently, the Labour Inspectorate, Pension and Disability Insurance Fund and Tax Authority cooperate, but their cooperation is not systematic which does not allow for a fast exchange of data. Serbia stated that it is undertaking new measures to reduce informal employment, *inter alia* through revision of the Labour Law aiming at enhancing inspection capacities of the Labour Inspectorate. Informal employment concerns particularly sectors of trade, horeca, construction and agriculture.

As regards administrative capacity, implementation of the employment policy falls under the responsibility of the MoLEVSA which has a specific department for employment with 17 posts out of which 12 are filled. The Ministry is also responsible for supervising the work of the NES which has 1 804 employees and 64 employment agencies in the country. IPA assistance has been provided to enhance capacity of local employment agencies. Services to the unemployed and employment mediation services are provided free of charge.

## **II.e. European Social Fund (ESF)**

The department responsible for international cooperation, EU integration and projects is now accountable directly to the Minister of Labour, Employment, Veterans and Social Policy and is structured in three sub-units. Serbia indicated as future challenges in this respect decentralised management, especially strengthening of the capacities of all institutions involved; matching EU

funds and the national budget; sector approach; strengthening capacities of grant beneficiaries (civil society organisations, trade unions, employers' organisations) and linking the accession negotiation process with IPA programming. It also stated that Taiex funding will be requested for the future preparations for ESF. In December 2014, a Taiex workshop was held in Belgrade on preparations for ESF.

## **II.f. Social inclusion**

In 2010, due to the economic crisis, the positive trend in poverty reduction seen in previous years (poverty was reduced by half) was reversed and the poverty rate increased by 12 % compared with 2008, when the Serbian household budget survey showed 7.9 % of the population living beneath the absolute poverty line. Serbia carried out its first survey on income and living conditions (SILC) in 2013 and the third wave is under preparation for 2015. Currently the at-risk-of-poverty rate in Serbia is 25.6 % (2014) and 43.2 % of the population (three million people) are at risk of poverty or social exclusion, whilst 8.6 % of the population lived below the absolute poverty line in 2013. There are no significant differences in terms of poverty risk among men and women. Poverty risk is high for unemployed people, and is also significantly reduced with higher education levels. The most vulnerable population groups are rural population, in particular in Southern/Eastern Serbia, children below 14, and undereducated population.

Serbia stated that during the implementation of the Poverty Reduction Strategy 2003–2008 poverty was reduced by half. In 2009, Serbia engaged in a broader approach for poverty reduction and social inclusion. Systemic steps were taken for the establishment of a social inclusion process in Serbia: the institutional framework was established and strengthened, indicators were introduced, first inclusive laws were enacted, the SILC (Statistics on Income and Living Conditions) survey was introduced, and impact assessments of specific inclusive measures were taken. A first National Report on Social Inclusion and Poverty Reduction was adopted in March 2011 covering the period 2008–2010. It reviewed the trends and the status of social inclusion in Serbia for the first time against EU social indicators, introduced ambitious social inclusion policies and integrated the recommendations of the EU 2020 Strategy and the Platform against Poverty related to candidate countries. A second National Report on Social Inclusion and Poverty Reduction was adopted in October 2014, covering the period 2011–2014. It is based for the first time on SILC data and includes independent reports and findings of the civil society sector. It also provides all relevant data needed for the development of the Employment and Social Reform Programme (ESRP). Currently, there is no comprehensive social inclusion strategy in Serbia, but different strategies in place (related to education, employment, housing, etc.).

Serbia stated that during the past decade, numerous steps have been taken towards de-institutionalisation, including with IPA support. A Master plan on transformation of institutions was developed in 2009 aiming at transforming services of placement into community-based services. Significant inputs of the Master plan have been included in the Law on Social protection adopted in 2011, *inter alia* a ban on institutionalisation of children below three, introduction of small group homes as new forms of placement (currently five), financing of supported housing services for people with disabilities from the national budget, etc. Also residential capacity of individual institutions is limited up to 50 users. Five residential homes for children without parental care have been entirely closed over the years. The most frequent services currently are home help and care and day-care centres. 65 % of all municipalities in Serbia have some kinds of services for children with disabilities. However, although community-based services are considered as a priority, funding for these services remains unstable.

Serbia stated that the situation of *people with disabilities* in Serbia largely complies with EU rules and regulations. Although there are no records on the number of people with disabilities in Serbia, it is estimated that 500 000 people with various types of disabilities live in the country. Serbia ratified the UN Convention on the Rights of people with disabilities (UNCRPD) in July 2009. A Strategy for Promoting Position of Persons with Disabilities in the Republic of Serbia 2006–2015 was adopted in 2007 and an Action plan for its implementation for the period 2013–2015 in 2013. A new strategy covering the period up to 2020 is foreseen to be adopted at the beginning of 2016. Implementation of the Strategy is monitored by a Government Council for People with Disabilities which was established in 2002 and which comprises of representatives by the competent Ministries, NGOs and experts. Similar structures exist also at local level in a large number of municipalities. There is also a Department for Protection of People with Disabilities in the MoLEVSA with seven members of staff. The Law on Social protection provides for support services for independent living and inclusion of people with disabilities in the local community: services of a personal assistant, supported housing and day-care centres. A Law on Prohibition of Discrimination of Persons with Disability was adopted in April 2006 aiming at aligning with the *acquis* though with a broader scope. The Law on Road Traffic Safety adopted in 2009 aims at aligning with the *acquis* on a parking card for people with disabilities. A Law on Professional rehabilitation and employment of people with disabilities adopted in May 2009 regulates the quota system for employment of people with disabilities, the measures of vocational rehabilitation, measures to stimulate employment, etc. Special attention is paid to employment of women with disabilities. New legislation on the use of dog-handlers and on sign language was adopted in March and April 2015 respectively. Notwithstanding all the efforts and measures taken, Serbia indicated that social inclusion of people with disabilities is at an extremely low level. Insufficient number of community-based services also affects social exclusion of people with disabilities.

## **II.g. Social protection**

Serbia stated that a new Law on Social protection was adopted in April 2011, increasing allowances for the poorest segments of society. National programmes for the improvement of social protection are adopted annually.

Serbia indicated that sufficient institutional capacity is in place in this area. There is a Social Protection Institute and a network of 141 centres for social work across the country, that represent the basic social welfare institutions as defined under the Social Welfare Act.

Serbia indicated that all the employed and other citizens covered by compulsory insurance are entitled to healthcare in Serbia.

Serbia stated that a number of reforms have been implemented in the area of pensions since 2011. The Serbian pension insurance system consists of a mixed public and private pension insurance system based on the first and third pillars. The mandatory pension and disability insurance (I pillar) is regulated by the Law on Pension and Disability Insurance. Amendments to the Law were adopted in July 2014, introducing changes in pension calculation and retirement rules, including extending women's retirement age to 65 from 60 as for men and providing for stricter eligibility requirements for early retirement. The system of voluntary pension funds and pension plans (III pillar) is regulated by the Law on Voluntary Pension Funds and Pension Plans since 2006. There are currently four pension companies, managing six voluntary pension funds. About 13 % of GDP was spent on pensions in 2014. In December 2014, a Law amending the Law on Pension and Disability Insurance and a Law amending the Law on Budget system were adopted providing that pension amounts will not be raised until the ratio pension expenditure/GDP falls below 11 %. Currently, 60 % of pensioners are old-age pensioners, 19 % disability pensioners and 21 % survivors' pensioners.

## **II.h. Non-discrimination in employment and social policy**

Serbia's general framework on anti-discrimination applies also on matters covered by this chapter. Serbia stated that the Constitution of Serbia prohibits all direct or indirect discrimination based 'on any grounds'. This prohibition is enshrined in the general Anti-discrimination Law, in place since March 2009 and aiming at aligning with the *acquis*. Further amendments are foreseen to be adopted in 2016. Anti-discrimination provisions are also included in a number of sectorial pieces of legislation. A comprehensive anti-discrimination strategy (2013–2018) was adopted in June 2013 and an Action plan for its implementation in October 2014.

Serbia stated that discrimination still persists. The groups most discriminated against are Roma, people with disabilities, LGBTI and persons with HIV/AIDS. The Anti-discrimination Law foresees that complaints of discrimination will be notified to the Equality Commissioner who may, with the consent of the person discriminated against, initiate a law suit. If any violation of rights guaranteed by the law is proven, the Commissioner may submit misdemeanour notices and may press criminal charges for anti-discrimination. Penal provisions, including fines, are defined by law. Serbia stated that most cases are dealt with by an out-of-court settlement and that the number of complaints has not been decreasing. (For other aspects of anti-discrimination, see also chapter 23 – *Judiciary and fundamental rights*).

## **II.i. Equality between men and women in employment and social policy**

Serbia is party to a number of international conventions on equal opportunities, including the UN Convention on the elimination of all forms of discrimination against women (CEDAW). Discrimination on grounds of gender in relation to employment is prohibited under Serbian legislation, mainly the Labour Law (2005), the Law on gender equality (2009) and the Anti-Discrimination Law (2009). These laws also contain provisions on gender equality, covering equal pay, access to employment and maternity protection, including maternity leave. Implementation of legislation is supervised by the Labour Inspectorate which, according to Serbia, is rarely addressed in individual cases, with the exception of pregnant women. Serbia also stated that so far there have only been five final judgments in the area of gender equality since 2009.

Concerning legal alignment, Serbia stated that work is ongoing to amend the Law on Gender equality in view of aligning with Directive 2004/113/EC on the application of the principle of equal treatment between men and women in the access to and supply of goods and services as well as with Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding *inter alia* by extending parental leave and providing further safeguards from dismissal. It is also foreseen to amend the Law on Gender equality in order to include the obligation of having 30 % of less represented gender in managing boards of both public and private companies.

In 2009 Serbia adopted a National Strategy for Improving the Status of Women and Promoting Gender Equality, along with an Action Plan to implement it over the period 2009 – 2015. One of the objectives of the strategy is to improve the economic situation of women. On average, women are still paid lower salaries than men, including for the same job, and their unemployment rate is higher (18.7 % in the fourth quarter of 2014, against 17.5 % for men). Serbia stated that the Strategy is being evaluated in view of adopting a new one.

As regards administrative capacity, Serbia stated that there is a number of equality bodies dealing with gender equality: a Coordinating Body for Gender Equality established in October 2014, a high-level body chaired by the Vice Prime Minister, comprising of representatives of

line ministries, NGOs and relevant experts, the Equality Commissioner who is also authorised to fight against gender discrimination as well as the provincial and local bodies. However, further efforts are necessary to coordinate and strengthen the relevant institutional structures, including by ensuring the necessary human and financial resources. (For other aspects of equality between men and women, see also chapter 23 – *Judiciary and fundamental rights*).

### **III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY**

Overall, Serbian legislation is partially aligned with the *acquis* in the field of social policy and employment. Legislative work is currently being carried out in this area in view of further aligning with the *acquis*. Resolute action is needed in order to advance in legal alignment and to address also the critical labour market situation, including undeclared work. Efforts should be stepped up as regards poverty reduction, improving the inclusion of the Roma, people with disabilities and other vulnerable groups. Due functioning and transparency of social dialogue need to be ensured. In general, planning of the work ahead in the area of social policy and employment as well as Serbia's implementation and enforcement capacity will require sustained attention, as the administrative capacity will need to be strengthened if the *acquis* is to be properly applied. Also, sufficient funding should be ensured, for example in the field of employment policy and health and safety at work.

#### **III.a. Labour law**

Some of the basic principles laid down by the EU labour law *acquis* appear to be in place. A significant number of important adjustments to the national legislation in this area will be necessary in order to prepare for complete legal alignment in this area. Given the high level of informality in the Serbian labour market, there is also an important gap in the coverage of workers by the provisions of the law. Due implementation and enforcement of the legislation need to be ensured. Administrative capacity of the authorities in charge of monitoring the application of the law needs to be strengthened, including through the provision of adequate training. The functioning of the tripartite dialogue with regard to the ongoing reviews of the labour law needs to be ensured.

#### **III.b. Health and safety at work**

Some of the basic principles laid down by the EU *acquis* on health and safety at work appear to be in place. However, a number of important adjustments to the national legislation will be necessary in the coming years in order to prepare for complete legal alignment in this area. The ongoing revision of the legislation in this area provides the opportunity to start this process. In addition, the co-existence of Rulebooks adopted in the former Socialist Federal Republic of Yugoslavia still in force in certain industries with the new legislation raises concerns about the consistency of the applicable legislation and the compatibility of certain provisions with the *acquis*. Overall, due implementation and enforcement of the legislation will need to be ensured.

The Labour Inspectorate has the adequate structure, powers and facilities to monitor enforcement of legislation on health and safety at work. However, there is room for improvement, notably as regards increasing the number of inspectors, ensuring efficient inspections in the field, *inter alia* in relation to planning of the Inspectorate's activities, visits by inspectors to actual workplaces (instead of verifying documentation only) and the availability of information technology. Social partners as well as other public bodies, such as the Ministry of Health, should be involved in the programming and planning of labour inspection activities.

### **III.c. Social dialogue**

The proper functioning of the tripartite social dialogue needs to be improved, so that in particular working groups established for the analysis of the amended Labour law and legislation on social partnership could effectively play their role. This is of particular concern. In general, the meetings of the Economic and Social Council are not systematic and should be improved according to the relevant rules. No agreement has been reached on the level of the minimum wage. Consultation of the Council on legislative amendments is improving but remains limited. The institutional role of representative social partners should be fully respected. The criteria and procedure to establish representativeness of trade unions and employers' organisations need to be agreed in a clear and transparent manner. At local level, tripartite social dialogue still needs to be developed.

Bipartite social dialogue remains underdeveloped, with collective bargaining having almost come to a halt. There are very few sectoral collective agreements in place. The administrative capacity of social partners needs further strengthening to ensure their participation in collective bargaining and legislative consultations. Also the Agency for Peaceful Settlement of Labour Disputes needs further strengthening.

### **III.d. Employment policy**

The labour market situation in Serbia remains critical. Low labour market participation and low employment rates – especially among women - as well as a high level of informal employment, together with substantial skills mismatch and inadequacies of human capital development represent considerable challenges for the Serbian labour market as the economic restructuring continues. Recent increases in employment and in the employment rate should be further analysed. Very high youth unemployment and high NEET rates are serious concerns. The budget earmarked for active labour market measures is insufficient to address the high level of unemployment, notably long-term unemployment, undeclared work and youth unemployment and to face future challenges, notably the forthcoming large redundancies linked to the restructuring of state-owned enterprises. The coverage of active labour market measures remains low and the evaluation of the efficiency of the active labour market measures needs to continue. Implementation of the ambitious 2013 youth package also needs to be assessed. In this respect, developing reliable data and statistics remains an outstanding issue, in particular for labour market analysis. Sufficient attention should also be paid to adult education and training. Cooperation between the employment offices and training institutions should be strengthened. Measures need to be taken to tackle undeclared work which continues to be an obstacle to increasing regular employment. Also a thorough analysis of the underlying causes of informal employment is needed urgently. As regards administrative capacity, while the NES staff are generally competent, its capacity is curbed by its increased workload and limited new recruitment. A re-organisation is planned with the support of the World Bank, in particular to improve the job matching service (both for the unemployed and for the employers).

### **III.e. European Social Fund (ESF)**

In terms of preparation for ESF, Serbia will have to adapt its legislation and structures in order to be able to successfully manage, implement, monitor, audit and control ESF-type measures. Coordination between the priorities identified in the indicative strategy paper for Serbia and in the Employment and social reform programme needs to be further enhanced for the programming of IPA funds. The administrative capacity of all authorities involved, mainly government bodies, but also municipalities and education institutes, will need to be strengthened.

### **III.f. Social inclusion**

Efforts need to be stepped up in order to ensure social inclusion of vulnerable groups, such as Roma, people with disabilities, youth, elderly and other socially and economically disadvantaged. Due attention needs to be paid to the at-risk-of-poverty rate (25.6 %) which is increasing and compares to the highest in the EU, especially as regards rural population. A more strategic approach to social benefit reforms appears necessary in an integrated approach including the provision of social services in order to provide more effective support for parts of the population most in need. Awareness raising activities in this area should continue. De-institutionalisation process needs to be prepared very carefully, as creation of sustainable and adequate alternative services takes time. Due attention should be paid to quality of foster care and of small group homes. However, more importantly, measures should be taken to prevent institutionalisation. Attention should be paid to prevention of child abandonment and of separation of children from their families. The challenge is to reach out to the most vulnerable groups of society with adequate social support and social services.

As regards people with disabilities, the normative and legal framework is extensive, but focus of activities in this area needs to shift now towards due implementation of the legislation and different strategies, including allocation of sufficient financial resources. De-institutionalisation of adults is lagging behind. More attention needs to be paid to the social integration of people with disabilities, including through the development of community-based support services and to the accessibility to buildings. Developments in this field should be monitored carefully. Overall, appropriate monitoring and evaluation mechanisms for social inclusion strategies need to be in place.

### **III.g. Social protection**

Serbia has implemented a number of reforms in the field of social protection, notably of pensions, e.g. increasing the retirement age. In order to face the demographic challenge of an ageing population, efforts to make the social protection system supportive to activation, higher labour market participation and to an inclusive labour market need to continue. The pension system continues to show a high deficit. Further efforts are needed to increase employment, to increase the effective exit age from the labour market in general and avoid unnecessary early retirements in particular. In the health care sector, equal access to health care services needs to be ensured, also for representatives of socially disadvantaged groups, e.g. Roma.

### **III.h. Non-discrimination in employment and social policy**

The national legal framework in the area of anti-discrimination is broadly in place in Serbia. Efforts are required to bring the anti-discrimination legislation fully in line with the *acquis* as regards the scope of exceptions from the principle of equal treatment, the definition of indirect discrimination and the obligation to ensure reasonable accommodation for disabled employees. In general, effective implementation of the existing legislation remains a major challenge. Public awareness in this field needs to be raised further, including among the relevant authorities, such as judiciary. Furthermore, attention should be paid to the availability of sufficiently comprehensive statistical data in order to allow adequate monitoring of discrimination in employment and access to social services. As regards administrative capacity, the capacity of the Office of the Equality Commissioner still needs to improve, especially in order to handle a high flow of complaints from citizens. Developments in this field need to be monitored carefully.

### **III.i. Equality between men and women in employment and social policy**

Basic legislation in this area is in place, comprising equal pay, access to employment and maternity protection, including maternity leave. Further legal adjustments are, however, necessary, e.g. aligning several definitions with those of the Anti-discrimination Law and further bringing the legislation in line with the EU *acquis*, notably on the application of the principle of equal treatment between women and men in the access to and supply of goods and services (Directive 2004/113/EC), maternity leave (Directive 92/85/EEC) and parental leave (Directive 2010/18/EU). Promotion of gender equality and women's rights has continuously improved over the past years. However, effective enforcement of the legislation is needed, in particular regarding women on maternity leave, sexual harassment at work and inequality in promotion and salaries. Women's rights need to be better protected, mainly on improving equality in the workplace. Further efforts to raise awareness on gender equality are necessary, particularly in rural areas. Availability of gender-segregated statistical indicators needs to be ensured. Administrative capacity on gender equality issues remains weak. Generally, effective implementation of existing legislation and strengthening of related administrative capacity is the main challenge in this area.