

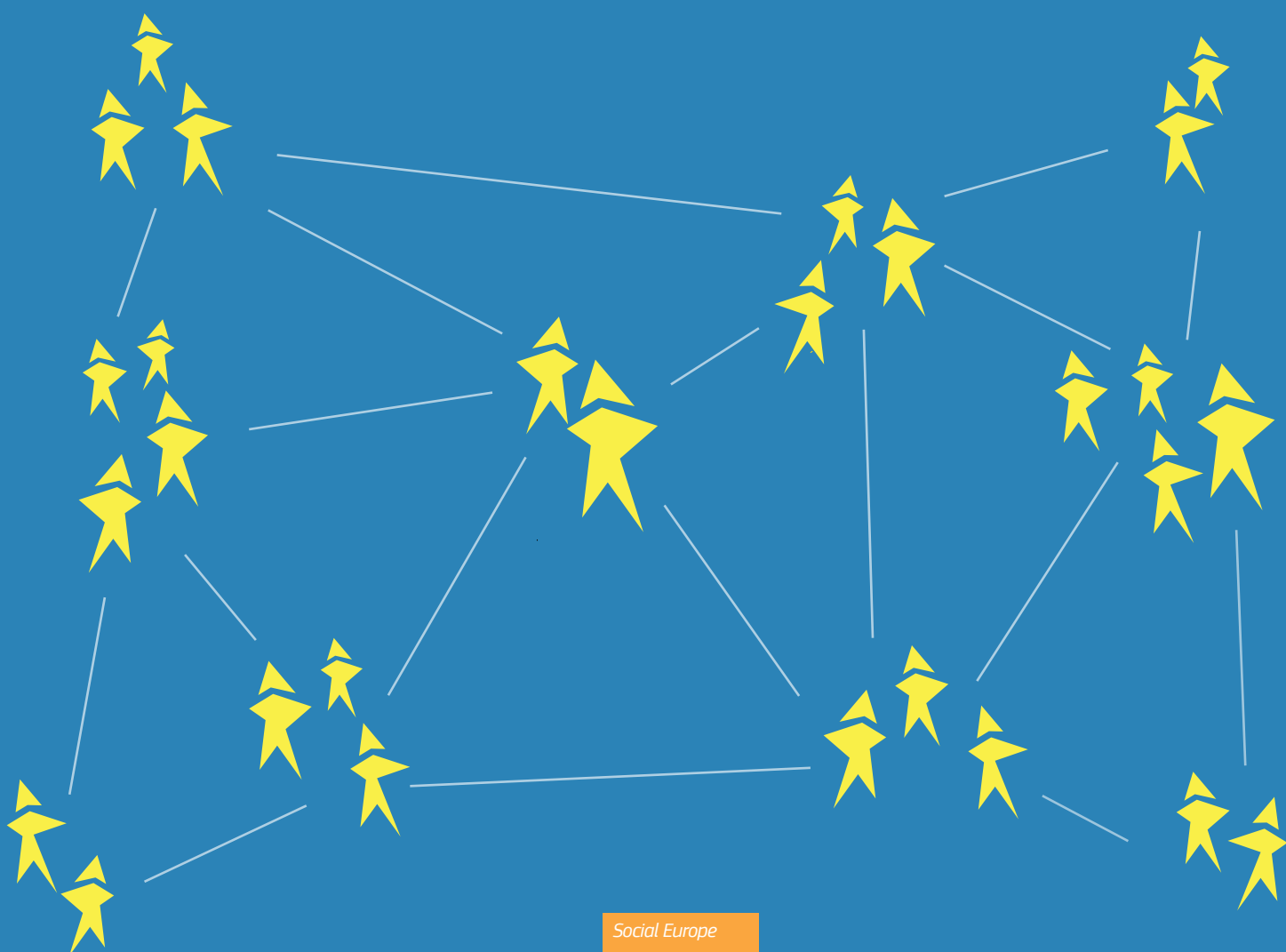


EUROPEAN SOCIAL POLICY NETWORK (ESPN)

# Social protection for people with disabilities

Bosnia and Herzegovina

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Social Europe

**EUROPEAN COMMISSION**

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# **European Social Policy Network (ESPN)**

## **ESPN Thematic Report on Social protection for people with disabilities**

### **Bosnia and Herzegovina**

**2022**

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## Summary

This report analyses some important cash and in-kind social protection provisions available to adult people with disabilities (i.e. people aged 18 or above) in Bosnia and Herzegovina (BiH). There are other important provisions available to them in other areas not covered in this report. In line with Article 1 of the UN Convention on the Rights of People with Disabilities (CRPD), "people with disabilities" should be understood as "*those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others*".

Financial assistance for people with disabilities is provided by the entities (Federation of BiH – FBiH, and Republic Srpska – RS), Brčko District and lower levels of government (i.e. local authorities and cantons in the FBiH). Within the system of non-contributory benefits, both entities make distinctions between three status categories of people with disabilities: war veterans with disabilities, civilian victims of war, and people with disabilities who acquire their rights under general social assistance legislation. A fourth group is people with disabilities who suffered a work injury or professional illness, whose rights are regulated under the pensions and disability insurance legislation. The status-based legislation and its corresponding by-laws set down different criteria for disability assessments, which are based primarily on medical diagnoses. The implementation of such legislation has led to significant differences in access to the benefits, and in the level of benefits provided to different groups of people with disabilities. War veterans hold a privileged position compared with other groups of people with disabilities with regard to disability assessment, and the range and levels of benefits available. Income support benefits aimed at covering disability-related healthcare and housing costs are available only to war veterans with disabilities.

People with disabilities have limited access to general social protection cash benefits. The eligibility conditions for people with disabilities under these schemes are the same as for people without disabilities. Access to insurance-based benefits, such as old-age pensions and unemployment insurance benefits, depends on years of insurance, which is based on employment. Given that people with disabilities have generally limited access to employment, their access to the insurance-based benefits is very limited. At the same time, guaranteed minimum income schemes are underfunded and hard to access due to strict means-tested eligibility criteria.

The provision of assistive technology in the country is marked by several gaps and obstacles, such as lack of sufficient funding and quality of aids, and restricted access due to the use of prescribed lists of devices that are recognised by the relevant administrative units. Personal assistance is only rarely provided, by a few local authorities in the country.

Public debates over the rights of people with disabilities are usually initiated by organisations representing the interests of particular status groups of people with disabilities, while debates about improving the overall status of people with disabilities under the principles of non-discrimination and inclusion are rare. The voices of the most disadvantaged groups of people with disabilities (i.e. those who receive benefits under the general social assistance legislation) mostly go unheard.

The most recent legislative developments in the country include the introduction of a disability benefit under general social assistance legislation in the RS entity. The FBiH recently adopted a single list of disabilities, which will be applied to all disability assessments in the future. In this way, the FBiH entity took an important step towards harmonising the disability assessment procedure with the principles of non-discrimination enshrined in the UN CRPD, which the country ratified in 2010. The RS entity has not taken any similar steps towards abolishing status-based discrimination thus far, even though these measures were envisaged in the RS strategy for 2017-2026. Besides abolishing discrimination in access to, and the level of, benefits, the entities need to regulate the right to personal assistance to ensure the availability of services in all parts of the country.

## 1 Access to disability-specific income support

### 1.1 Disability-specific benefits/pensions available to working-age people

The financial benefits for people with disabilities described in this section are disability benefits regulated by entities' legislation. Out of the five benefits described in the section, two are contribution-based benefits: disability pension and financial compensation for physical disability, which are provided under pensions and disability insurance legislation. These benefits are financed from pension contributions. The remaining three types of benefits (i.e. compensation for war veterans with disabilities, compensation for civilian victims of war, and financial assistance for people with disabilities under the entities' social assistance legislation) are non-contributory benefits financed from government budgets.

#### 1.1.1 *Pravo na invalidsku penziju* (Right to disability pension)

The right to a disability pension (*Pravo na invalidsku penziju*) is a social insurance right granted under the entities' pensions and disability legislation (Law on pensions and disability insurance in the Federation of Bosnia and Herzegovina (FBiH), and Law on pensions and disability insurance in the Republic Srpska (RS)).

##### a) Eligibility conditions

Disability-related qualifying criteria: Disability pensions are granted to people who lost their ability to work (100% disability) or to perform a job that corresponds to their level of qualifications and acquired work skills.

Age: At least 15, which is the legal age for starting employment, and not older than 65.

Nationality and/or residency: None (i.e. there are no nationality or residency requirements for accessing this benefit<sup>1</sup>).

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: **In the event of a work injury or professional illness** (which in the RS also includes military service in the event of war or a disability related to war events), disability pension is granted irrespective of the number of years in insurance (technically, the beneficiary can be just registered as insured with the pension fund and have only one day of insurance). **People whose disability is not work-related** need to have some years of insurance. In the RS, people under 35 are required to have at least two years of insurance, while those aged 36-64 are required to have at least five years of insurance or 10 years of pension insurance.<sup>2</sup> In the FBiH, beneficiaries must have at least one third of their working-age period<sup>3</sup> covered by pension insurance, but not less than one year of insurance.

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: In the RS, some years spent in the army during the last conflict.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

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<sup>1</sup> This applies to EU and non-EU nationals as well as to people with refugee status.

<sup>2</sup> Pension insurance includes years spent in the army during the 1992-1995 conflict, which are counted as double.

<sup>3</sup> The working-age period is counted from the age of 20, 22 or 25 (depending on the level of education), until the time of disability was incurred.

**b) Disability assessment framework**

In both entities, medical examinations for rights under pensions and disability legislation are conducted under special by-laws. The RS Pension Fund applies the decree on medical examinations for pensions and disability insurance. In the FBiH, a new list of disabilities has been applied since August 2021. Both entities use separate lists for professional illnesses, which stipulate those for each profession. The procedure for disability caused by professional illnesses must be aligned with the entity by-law that regulates this area. In the FBiH, disability assessments for professional illnesses must be aligned with the rulebook on professional illnesses, approved by the responsible entity ministry. In practice, this means that disabilities caused by diseases not covered by the by-law will not be recognised as professional in nature, which affects the outcome of the assessment and therefore the right to disability pension.

Type of assessment: Medical assessment of the disability, while taking into consideration people's functional ability to perform their job or a job related to their level of qualifications or acquired work skills.

Responsible authority: In the RS, medical assessments for rights under pension insurance are under the responsibility of the RS Pension Fund. In the FBiH, they are conducted by the FBiH Institute for Medical Examination (a single institution that carries out all medical assessments in the FBiH entity).

Method: The assessment procedure takes into consideration medical documentation issued by medical specialists, as stipulated by the rulebooks.

Supporting evidence: Medical documentation provided by medical specialists and people's family doctors. Disability assessments for professional illnesses in the RS must include an expert opinion given by the Institute for Work Medicine, confirming the procedure was aligned with the rulebook for determining professional illnesses. The procedure also includes a short interview with the person with a disability.

Assessor: Responsible medical specialists employed by the RS Pension Fund and the FBiH Institute for Medical Examination.

Decision-maker: In the FBiH, it is the FBiH Pension Fund on the basis of medical assessments conducted by the FBiH Institute for Medical Examination. In the RS, it is the RS Pension Fund.

Critical analysis: Although the general rules for disability pensions in the entity pension and disability legislation appear favourable, in practice it has become increasingly difficult for people to realise their rights. The reason is that the disability assessment procedures have been tightened (Obradović, 2021a). This has been possible because the by-law and the procedure for disability assessment give the assessors wide discretionary powers when assessing disability. As a result, the share of disability pensions in the total number of pensions has fallen continually. For instance, in the RS, the share of disability pensions in the total number of pensions fell from 18.1% in 2010 to 13.14% at the end of 2021 (Fondpiors.org, 04.01.2022).

**c) Benefit entitlements**

Both entities apply a points system for calculating the pension base. In principle, the disability pension is calculated in the same way as the old-age pension. However, in both entities, the pension formula differs depending on whether the disability was work-related or not. For a disability that is not work-related, the calculation takes into account the salary level and the number of years of insurance. In general, for those who have less than 15 years of insurance, a disability pension is counted as if the beneficiary has 15 years of insurance. In terms of payment, the pension cannot be lower than a minimum pension. In the event of work injury or professional illness, the pension base is calculated as if the beneficiary has full years of insurance (i.e. 40 years). In the RS, for war-related disability, the personal co-efficient cannot be lower than 1.3.



Level of the benefit: The monthly minimum pension<sup>4</sup> paid by the RS Pension Fund amounts to KM223 (€114.40), while that paid by the FBiH Pension Fund is KM382.18 (€196). In December 2021, the highest monthly pension in the FBiH amounted to KM2,174.50 (€1,115), while in the RS it was KM2,181.40 (€1,118.60). At the same date, the average monthly pension in the FBiH was KM489.70 (€251), while in the RS it was KM414.25 (€212.50), suggesting that both pension funds have a large number of pensioners receiving a minimum or near-minimum pension.

Duration of the benefit: The disability pension is paid for life. In the event of death, the pension can be passed on to dependent family members as the family (survivors') pension, depending on the spouse's age and gender, and the age of children.

Interactions with other income or other related benefits: In the FBiH, disability pensioners might be eligible for financial compensation for physical disability (see Section 1.1.2). In both entities, pensioners, in general, might be eligible for disability benefits under the general social assistance legislation (see Sections 1.1.5 and 2.3).

Challenges: The level of pensions in both entities is low and inadequate for a living (Obradović, 2021a). Disability pensions are, on average, lower than an old-age pensions. However, the lowest pensions are disability pensions that are not work-related, because of the calculation formula which takes into account only the actual number of years of insurance and the level of earnings.

### **1.1.2 *Novčana naknada za fizičku onesposobljenost (Financial compensation for physical disability)***

The right is granted only to beneficiaries of the FBiH Pension Fund, based on the FBiH Law on pension insurance (Chapter IV). In the RS, the right<sup>5</sup> existed only under previous legislation, and to this date the RS Pension Fund has paid this benefit only to legacy beneficiaries (i.e. the right cannot be acquired under the existing pensions and disability legislation in the RS).

#### **a) Eligibility conditions**

Disability-related qualifying criteria: The beneficiary needs to have at least 30% disability, caused by work injury or a professional illness.

Age: Disability benefits can be claimed before the age of 65, which is the qualifying age for an old-age pension. The lowest age threshold for entering employment is regulated by general labour legislation, which stipulates that employment can begin at 15.

Nationality and/or residency: None (i.e. there are no nationality or residency requirements for accessing this benefit<sup>6</sup>).

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: Beneficiaries must be registered as insured with a pension fund and have at least one day of insurance.

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: The beneficiary has to be employed and covered by pensions and disability insurance, which assumes regular payment of contributions.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

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<sup>4</sup> The RS has five levels of minimum pensions, where the benefit level corresponds to the beneficiary's number of years in insurance.

<sup>5</sup> In the RS, also included the carer's assistance.

<sup>6</sup> This applies to EU and non-EU nationals as well as to people with refugee status.

**b) Disability assessment framework**

The disability assessment framework is regulated by pensions and disability insurance by-laws applying to disability assessment in the event of work injury or professional disease (please see Section 1.1.1).

Type of assessment: Medical assessment of the disability, taking into consideration people's functional ability to perform their job or a job related to their level of qualifications or acquired work skills.

Responsible authority: In the RS, medical assessments for rights under pension insurance are the responsibility of the RS Pension Fund. In the FBiH, they are conducted by the FBiH Institute for Medical Examination.

Method: The assessment procedure takes into consideration medical documentation issued by medical specialists, as stipulated by the rulebooks.

Supporting evidence: Medical documentation provided by medical specialists and people's family doctors. The procedure also includes a short interview with the person with a disability.

Assessor: Responsible medical specialists employed by the RS Pension Fund and the FBiH Institute for Medical Examination.

Decision-maker: The FBiH Pension Fund and the RS Pension Fund.

Critical analysis: Not documented.

**c) Benefit entitlements**

Level of the benefit: The amount of benefit depends on the level of disability. It ranges from KM68 (€35) for people with 30% disability to a maximum of KM229 (€117) paid to people with 100% disability. The benefit is paid monthly.

Duration of the benefit: Unlimited.

Interactions with other income or other related benefits: The financial compensation for physical disability is received on top of the disability pension, or the salary for those who are still in employment. In both entities, the beneficiaries of financial compensation for physical disability cannot receive other disability benefits under social assistance or war veteran legislation.

Challenges: The benefits paid by the RS Pension Fund to pensioners who acquired this right under previous legislation are particularly low. According to RS Pension Fund officials, in December 2021 the benefit was paid to only 209 pensioners (RS Pension Fund, 05.01.2022). In the FBiH, financial compensation for physical disability is given some 1,667 beneficiaries (FBiH Pension Fund, 2022)

**1.1.3 *Naknade za ratne vojne invalide* (Compensation for war veterans with disabilities)**

These benefits are granted under entity laws for war veterans with disabilities: Law on the rights of war veterans, veterans with a disability and family members of the fallen soldiers in the RS, and Law on the rights of war veterans and members of their families in the FBiH.

**a) Eligibility conditions**

The beneficiary must have war veteran status. In the FBiH, war veterans are: former members of the Army of Bosnia and Herzegovina (BiH), and of the Croatian Defence Council; and the police of the Ministry of Interior Affairs who served in these armies during the 1991-1996 conflict. In the RS, war veteran status is based on service in the army of Former Yugoslavia in the period 1990-1992 and the Army of the RS from 1992 to 1996.

Disability-related qualifying criteria: Both entities have lists of disabilities for war veterans, which stipulate the percentage of disability that corresponds to the loss of,

or damage to, each part of the body. In both entities, war veterans with disabilities are classified according to 10 categories based on the level of disability, which can range from 20% to 100%.

Age: None (i.e. there are no age requirements for accessing this benefit).

Nationality and/or residency: Under the RS legislation, residency status in the country is not required. Foreign citizens and people without citizenship in the RS<sup>7</sup> may be eligible for the benefits if they do not claim similar benefits in another country. Under the FBiH legislation, the beneficiaries must have residency status in either one of the entities or Brčko District.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: None (i.e. no minimum contributory record is required).

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: None.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

## **b) Disability assessment framework**

The assessment framework is regulated by law. The FBiH by-laws include: a rulebook on the work of the medical commission for the Law on the rights of war veterans and members of their families; a list of disabilities; a rulebook for determining the percentage of military disability; a rulebook on carer's allowance for military disability; and a rulebook on the orthopaedic supplement for military disability. In the RS, a rulebook on the procedure for determining the percentage of military disability is applied.

Type of assessment: Medical assessment.

Responsible authority: In the FBiH, the Institute for Medical Examinations; in the RS, the medical military commission, established by the Ministry of Labour and Protection of War Veterans with Disabilities.

Method: Medical assessment, including medical documentation.

Supporting evidence: Medical documentation issued by a medical specialist. In the RS, the supporting medical documentation has to be from the time when the injury occurred and from the time of treatment of the injury. The procedure also includes a short interview/examination.

Assessor: Two or three medical doctors, specialised in different fields.

Decision-maker: In the RS, the Ministry of Labour and Protection of War Veterans with Disabilities. In the FBiH, the local service for war veterans is responsible for the first-level decision, which is subject to control audit by the cantonal ministry for war veterans.

Critical analysis: The access to these benefits depends on war veteran status, which is controlled by war veteran associations, as well as the outcome of a disability assessment. There have been claims that many of these benefits were granted on the basis of falsified medical documentation (Centre for Investigative Journalism, 25.01.2022), which indicates political control over access to these benefits.

## **c) Benefit entitlements**

In both entities, the benefits include personal disability benefit, carer's assistance, and a supplement for orthopaedic aids. All these benefits are paid monthly.

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<sup>7</sup> This applies to EU and non-EU nationals as well as to people with refugee status.

Level of the benefit: The benefit base in the FBiH amounts to KM867.50 (€444.90), which is adjusted annually based on the available funding in the FBiH budget and the expected number of beneficiaries. From January to August 2020, the FBiH government applied a payment co-efficient of 0.979736, whereas for the last four months of the year, the co-efficient was 1 (FBiH Audit Office, 2021). The amount of personal disability benefit varies from 100% of the base for category 1 disability to 5% of the base for category 10.

In the RS, the government determines the benefit base each year, taking into consideration the amount of the average salary in the previous year and the funding available in the budget. In 2020, the benefit base was KM592.96 (€304) (The Supreme Office for the RS Public Sector Audit, 2021). The amount of disability benefit ranges from 5% of the base for category 10 (20% disability) to 130% of the base for category 1 (100% disability, requiring the assistance of another person).

The carer's assistance in the RS is divided in three categories. The first category has three grades and can amount to 86%, 100%, or 120% of the base, while the second category amounts to 66% of the base. The third category is 46% of the base and is provided in the event of additional disability not related to war events. In the FBiH, carer's assistance is provided to war veterans in categories 1-4 who are dependent on the assistance of other people. This type of assistance has three grades (50%, 70% and 100% of the benefit base) depending on war veteran status and the cause of disability.

Assistance for orthopaedic aids in the RS has four grades (with the level of the benefit ranging from 7% to 35% of the base). It can be granted only to war veterans in category 6, while in the FBiH it has three grades (the level of benefit can be 29%, 22% and 17% of the base).

The total amount of benefit received by war veterans with disabilities in both entities can vary considerably. For instance, in the RS in 2021 the amount of the benefit for those in category 1 varied from a minimum KM2,015.35 (€1,033.50) to a maximum KM2,351.30 (€1,205.80) monthly. For category 2, the total monthly amount of the benefit ranged from KM855 (€438.50) to KM1495 (€766.60). Only war veterans with disabilities in categories 7-10 receive a fixed monthly payment. The lowest benefit in the RS is paid to category 10 war veterans with disabilities, and amounts to KM30.50 (€15.60) monthly (RS Ministry of Labour and War Disability Protection, 2021, p. 19). War veterans with disabilities in the FBiH entity receive a similar level of benefits. In addition, the RS also provides supplement material assistance (only for war veterans in categories 1-4).<sup>8</sup>

Both entities have ensured a continuous increase in war veteran disability benefits by increasing the benefits base. For example, in the RS during 2013-2020, the benefit base increased by 17.3%, and in the year 2021 by 3% (RS Parliament, Committee for war veteran protection, 2021, p.3).

Duration of the benefit: Indefinite.

Interactions with other income or other related benefits: If war veterans with disabilities have disability rights acquired under other legislation, they have the right to decide under which legislation to receive the benefits (i.e. to choose the more favourable scheme).

Challenges: War veterans with disabilities also have the right to paid health insurance if they are not already insured with a healthcare fund on some other basis. Apart from the right to healthcare treatments, the health insurance coverage gives them the right

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<sup>8</sup> In case of death, the rights are transferred to family members in the form of family disability benefits and increased family disability benefits, etc.

to orthopaedic aids and assistance paid for by a health insurance fund. In addition, war veterans with disabilities are exempt from paying healthcare participation fees.

The benefits for war veterans with disabilities are the most generous disability benefits in the country. Both entities have a number of additional benefits for war veteran categories, for which war veterans with disabilities may apply. Some of these benefits, such as cash benefits for covering the cost of healthcare, and housing assistance for home adaptations, are described in more detail in Section 1.3.

War veterans with disabilities make up the most numerous group of people with disabilities. In January 2020, the number of war veterans with disabilities in the RS was 31,511 (The Supreme Office for the RS Public Sector Audit, 2021). In the FBiH, the number of war veterans with disabilities in January 2020 amounted to 82,057, which represented a fall of 1,972 since December 2019 (FBiH Audit Office, 2021).

#### **1.1.4 *Naknade za civilne žrtve rata (Compensation for civilian victims of war)***

Civilian victims of war are people with disabilities who are not members of the Army, and whose disability occurred during the last war or after the war as its direct consequence. Their rights in the FBiH entity are regulated by the general law on social assistance (Law on principles of social protection). The RS has two relevant laws – the Law on protection of civilian victims of war and the Law on the protection of victims of war torture. Under the RS legislation, the disability of civilian victims of war could be caused by imprisonment, torture, rape, wounding, injury, forced labour, etc., as well as by military actions of the enemy army. In the RS, the law stipulates that the members of the enemy forces or those who collaborated with the enemy forces cannot be treated as civilian victims of war.

##### **a) Eligibility conditions**

Beneficiaries must have the status of civilian victims of war. In both entities, the procedure for determining this takes into account the opinions provided by recognised associations of civilian victims of war, such as associations of women victims of sexual torture, the union of camp prisoners in the RS, and similar organisations.

Disability-related qualifying criteria: Disability is defined by reference to the lists of disabilities and other relevant by-laws. Beneficiaries must have at least 60% disability.

Age: None (i.e. there are no age requirements for accessing this benefit).

Nationality and/or residency: Nationality of Bosnia and Herzegovina, and residence in either one of the entities or Brčko District.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: None (i.e. no minimum contributory record is required).

Level of financial resources: The right to benefits in the RS was supposed to be conditional on income level (which should not be applicable to child beneficiaries), but the RS government never adopted the required by-law. Therefore, beneficiaries in the RS receive the benefits regardless of income level. In the FBiH, the income threshold is applied only to family benefits (provided under certain conditions when civilian war victims pass away).

Other: The RS legislation stipulates deadlines for submitting applications. The deadline under the first law<sup>9</sup> has expired, while the deadline for submitting claims under the latest law, which was passed in 2018, will expire in 2023.

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<sup>9</sup> The Law on protection of civilian victims of war in the RS limited the time in which an application for benefits could be made to five years after incurring a disability or five years after the end of the war. However, the deadline was postponed several times, and the last deadline was the end of 2007.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

### **b) Disability assessment framework**

In the FBiH, before September 2021, assessments were conducted on the basis of the FBiH rulebook for disability assessment of civilian victims of war and their family members, together with the rulebook for determining the percentage of military disability, adopted in 2004. Since September 2021, the FBiH has applied a new list of disabilities and a new rulebook for assessing disability under the law on social assistance. For the disability assessment of civilian victims of war, the RS applies a by-law for war veterans with disabilities (the rulebook for determining the percentage of military disability).

Type of assessment: Medical assessment.

Responsible authority: In the RS, medical examinations for civilian victims of war are conducted by the medical commission for war veterans with a disability. In the FBiH, medical examinations are under the responsibility of the FBiH Institute for Medical Examination.

Method: The assessment is conducted on the basis of medical documentation submitted and an interview with the applicant. Based on the law, the assessment takes into consideration mental consequences and any significant deterioration in health caused by torture, inhuman and humiliating treatment, illegal punishment, detention and similar.

Supporting evidence: Medical documentation issued by relevant medical specialists. In the RS, the supporting medical documentation has to be from the time when the injury occurred and from the time of the treatment of the injury. Other documentation is also taken into account, such as court decisions and court documentation, official statements by witnesses, and opinions issued by recognised organisations of civilian victims of war. The procedure also includes a short interview with the applicant.

Assessor: Medical commissions made up of medical doctors specialised in different fields.

Decision-maker: In the RS, the right to the benefits is decided by the local service for war veterans, which is audited by the responsible RS Ministry for Labour and Protection of War Veterans with Disabilities. In the FBiH, the first-level decision is issued by centres for social work or the responsible department in the local authority. The second-level decisions are made by the responsible cantonal ministry.

Critical analysis: Not documented.

### **c) Benefit entitlements**

In both entities, the rights include, among others, disability benefit, carer's assistance, assistance for orthopaedic aids, and (in the RS) a supplement for family members with reduced working capacity. All benefits are paid monthly. In addition, in the event of the death of a civilian victim of war, the rights can be transferred to dependent family members (who might be with or without a disability).

Level of the benefit: The benefit base for civilian victims of war in the FBiH is 70% of the benefit base for war veterans. The monthly amount of disability benefit ranges from 18% of the base for category 6 (KM153 or €78.50) to 100% of the base for category 1 (KM856 or €439). There are three monthly levels of carer's allowance for civilian victims of war in the FBiH, amounting to KM304 (€156), KM425 (€218) and KM607 (€311); there are also three monthly levels of assistance for orthopaedic aids, ranging from KM103 (€53) to KM252 (€129). The benefit base in the RS, according to the law, amounts to KM351 (€180), which is adjusted at the beginning of every year by the inflation rate in the previous year and according to the funds available in the RS entity budget. In 2020, it amounted to KM444.67 (€228) (The Supreme Office for the RS

Public Sector Audit, 2021). The amount of the disability benefit in the RS ranges from 100% of the base for category 1 disability to 30% of the base for category 6. The carer's allowance in the RS is paid only to people with disabilities in category 1, and amounts to 80% of the disability benefit for category 1. In the RS, civilian victims of war who have family members who cannot work (such as a child under 15, older people or people with disabilities who cannot work) also receive supplements in the amount of 50% of their disability benefit. Furthermore, civilian victims of war who are single parents have additional assistance.

Duration of the benefit: Not specified.

Interactions with other income or other related benefits: Civilian victims of war and their dependent family members also have the right to paid health insurance in the event that they are not already covered by health insurance on some other basis. The health insurance gives them the right to orthopaedic aids paid for by the health insurance fund (see Section 3).

If civilian victims of war have disability rights acquired under other legislation, they have the right to decide under which legislation to receive the benefits (i.e. to choose the more favourable scheme).

The responsible ministry in the FBiH reports that 3,685 civilian victims of war received disability benefits in 2019 (FMLSP, 2020). Out of this number, 222 people received the carer's assistance for civilian victims of war and 1,560 received the assistance for orthopaedic aids. In 2021, the FBiH had only six new beneficiaries in this status group. According to the audit report of the RS Ministry of Labour and Protection of War Veterans with Disabilities (The Supreme Office for the RS Public Sector Audit, 2021), some 2,655 people received disability benefits for civilian victims of war in 2020.

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

### **1.1.5 *Novčana pomoć za osobe s invaliditetom prema entitetskim zakonima o socijalnoj zaštiti (Financial assistance for people with disabilities under the entities' social assistance legislation)***

Financial benefits for people with disabilities are stipulated under the entity's general laws on social assistance (the FBiH Law on principles of social protection, and the RS Law on social protection).

#### **a) Eligibility conditions**

People with disabilities who cannot realise their rights under status-based legislation (such as legislation for war veterans with disabilities and civilian victims of war).

Disability-related qualifying criteria: In the FBiH, financial benefits under the entity law on social assistance are granted only to people with 90-100% disability. In the RS, disability benefits are granted to people with at least 70% disability who are dependent on the assistance of other people. The right to carer's assistance is determined by the RS Law on social protection, while the right to disability benefits is determined by the by-law for pension and disability insurance. In both entities, the lists of disabilities include different medical diagnoses and corresponding percentages of disability.

Age: None (i.e. there are no age requirements for accessing this benefit).

Nationality and/or residency: Residence in the respective entity and local authority,<sup>10</sup> because applications are submitted through local centres for social work.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

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<sup>10</sup> This applies to EU and non-EU nationals as well as to people with refugee status.

Contributory history: None (i.e. no minimum contributory record is required).

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: None.

Gaps and/or obstacles: The main obstacle to accessing these benefits in the RS is conditionality on functional disability, which leaves many people with disabilities without any benefits. Those are, in particular, people with mental disabilities. As a result, the RS has a considerably higher number of beneficiaries of carer's assistance than the number of disability benefit beneficiaries. Thus, in 2018, the personal disability benefit was received by 4,192 people, while carer's assistance for those in category 1 was received by 8,884 people and carer's assistance for category 2 was received by 17,510 (Ministry of Health and Social Protection, 2019, p. 8). However, the number of beneficiaries of personal disability benefits has been on the increase, and in 2020 this benefit was received by 6,188 beneficiaries (Srpska.info, 25.05.2021).

In the FBiH, around 47,261 people with disabilities receive the disability benefit, while 37,945 have the carer's assistance and 16,980 receive assistance for orthopaedic aids (FMLSP, 2020, p. 3).

## **b) Disability assessment framework**

In the FBiH, assessments are based on the general law on social assistance, and on the new list of disabilities and new rulebook for assessment of disability that have been in force since October 2021. However, for beneficiaries who acquired their rights previously, the old by-law continues to be applied. That is a by-law from 2010, which includes a list of disabilities, a rulebook for assessing bodily damage for people with disabilities based on the Law on principles of social protection, and a manual for applying the list of disabilities. In the RS, the rulebook for determining the capabilities of potential beneficiaries is applied to the assessment for the carer's assistance. However, disability assessments for adults with disabilities in the RS are conducted on the basis of a by-law that regulates disability assessment for pension and disability insurance.

Type of assessment: Disability assessments are based on medical diagnoses.

Responsible authority: In the RS, assessments are conducted by the commission for determining capability in relation to social assistance rights, which is established by the responsible local authority and its centre for social work. However, assessments for the disability benefit are conducted by the RS Pension Fund. In the FBiH, assessments are conducted by the FBiH Institute for Medical Examination.

Method: In both entities, assessments are based on medical diagnoses. In addition, for the right to the carer's assistance, the RS applies the "Barthel test" as a tool for assessing beneficiaries' functional ability to perform daily tasks and maintain personal hygiene.

Supporting evidence: Medical documentation issued by medical specialists, and an interview with the applicant.

Assessor: In both entities, disability assessments are conducted by medical doctors. In the RS, assessments of functional ability are conducted by a commission made up of one medical doctor specialising in family medicine, one disability specialist and one psychologist. Temporary commission members may include a medical doctor specialising in a required medical branch (depending on beneficiaries' type of disability) and a social worker.

Decision-maker: In both entities, the final decisions are made by centres for social work on the basis of a disability assessment.

Critical analysis: One of the main obstacles to accessing these benefits in the FBiH is the cost of disability assessments, which is met by the applicant. It amounts to KM84.41 (€43), but if the medical commission needs to make a home visit, the cost is KM128.12



(€66).<sup>11</sup> Some cantons in the FBiH refund the cost of disability assessments for people found to have at least 90% disability.

Furthermore, the list of disabilities used for assessing the level of disability gives discretionary powers to medical doctors. For instance, according to the new FBiH list of disabilities, mental retardation can be assessed at 60-100% disability. However, only people with serious mental retardation can be assessed at 90-100% disability. Similarly, Down's syndrome can be assessed at 80-100% disability. However, only people assessed with at least 90% disability have the right to disability assistance benefits.

### **c) Benefit entitlements**

**Level of the benefit:** In the FBiH, the monthly disability assistance for 100% disability amounts to KM109.76 (€56) and KM82.32 (€42) for 90% disability. The amount of carer's assistance is KM274.40 (€141) monthly for people completely dependent on the aid of others, while in the case of a partial dependency the benefit amounts to KM137 (€70) monthly. In addition, people requiring orthopaedic aids receive KM19.21 (€10) monthly. In the RS, the benefit base for a disability benefit is the average net wage in the previous year (which in 2020 was KM956 or €490). The highest amount of benefit is paid to people with 100% disability, and amounts to €73.50 monthly, while the lowest benefit of €44 monthly is received by people assessed with 70% disability. The carer's assistance in the RS amounts to €98 monthly for people completely dependent on the help of others, and €49 for people who are partially dependent on others.

**Duration of the benefit:** Indefinite, or time-limited in cases where beneficiaries' medical conditions are expected to change. In the latter case, beneficiaries may be requested to undergo a new medical assessment after a certain period.

**Interactions with other income or other related benefits:** People placed in a social protection institution at the expense of a public budget cannot receive these benefits. However, beneficiaries of disability benefits under social assistance legislation may be eligible for guaranteed minimum income schemes, such as means-tested social assistance benefits (see Section 2.3), since these disability benefits are not considered as income under the laws on social assistance.

Beneficiaries of disability benefits under the social assistance laws also have the right to paid health insurance in the event that they are not already insured on some other basis. The health insurance coverage gives them the right to orthopaedic aids and assistance paid for by the health insurance system.

Old-age pensioners and disability pensioners (but only those who are not beneficiaries of the assistance for bodily damage), may be eligible for disability benefits under social assistance legislation.

**Challenges:** No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

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<sup>11</sup> In the event of a complaint regarding the decision of the first level commission, the cost of a second-level commission is higher. It amounts to KM102.96 (€53), or KM154.44 (€79) if the beneficiary is immobile and requires a home visit.

## 1.2 Disability-specific old-age pension schemes

The country does not have any disability-specific old-age pension scheme.

## 1.3 Income support aimed at covering disability-related healthcare and housing expenses

### 1.3.1 Healthcare

#### 1.3.1.1 *Pravo na jednokratnu novčanu pomoć pri liječenju za ratne vojne invalide* (Right to one-off assistance with health treatment for war veterans with disabilities)

##### a) Brief description

This is a benefit stipulated under cantonal legislation on the supplementary rights of war veterans and members of their families. The one-off financial assistance can be used to help with medical treatments, the purchase of sanitary materials and medicines, expenses incurred during medical treatments that are not included in the healthcare package, or treatments that the health insurance fund finances only partially.

##### b) Main gaps/obstacles

This benefit is only available to war veterans with disabilities, and is not available to other people with disabilities. In BiH, out-of-pocket payments in healthcare amount to 29.35% of overall healthcare expenditure (Eurostat, 2022). This is an important obstacle to accessing healthcare for low-income households, including many people with disabilities.

##### c) Main adequacy challenges

The package of healthcare services covered by statutory health insurance differs from canton to canton. Under cantonal healthcare legislation, war veterans with at least 60% disability are exempt from the payment of participation fees for healthcare services.<sup>12</sup> However, all people with disabilities might have needs for medications that are not included on the lists of those covered by health insurance or might need orthopaedic aids not on the lists of orthopaedic aids, which entails additional costs. War veterans with disabilities apply directly to the responsible cantonal ministry. The amount of funding for this purpose depends on annual budget allocations in each canton.

### 1.3.2 Housing

Most people with disabilities live with their parents or family members, while a small number are placed in an institutional care. Neither entity nor Brčko District has legislation that stipulates financial assistance for home adaptations and renovations of housing space, or similar, for people with disabilities. The exception is war veterans with disabilities, which is explained in the next sub-section.

#### 1.3.2.1 *Stambeno zbrinjavanje ratnih vojnih invalida* (Housing assistance for war veterans with disabilities)

In the RS, the right is regulated by a decree on housing care for families of fallen soldiers and war veterans with disabilities; in the FBiH, it is regulated by cantonal legislation on the supplementary rights of war veterans.

##### a) Brief description

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<sup>12</sup> The FBiH Decision on participation in the cost of medical treatment within the basic healthcare package stipulates that war veteran groups and civilian victims of war with at least 60% disability, and beneficiaries of institutions of social protection, are exempt from payment of participation costs.

Under cantonal legislation, war veterans with disabilities, along with other war veteran groups, have the right to: privileged purchase of a housing unit owned by the canton; interest rate subsidies for housing credits; and housing grants, which can be used for the construction or renovation of existing housing. The RS decree stipulates the provision of a housing unit or housing grant assistance, depending on what is more appropriate for beneficiaries.

#### **b) Main gaps/obstacles**

Housing funding is limited, and priority consideration is given to war veterans with a higher degree of disability.

#### **c) Main adequacy challenges**

In the RS, at the beginning of each year, the responsible ministry develops a plan for the delivery of housing assistance, which is adopted by the RS government. To apply for assistance, war veterans with disabilities need to respond to a call published by the ministry. The ministry gives priority to applications received from war veterans with higher degrees of disability. Housing assistance amounts to KM8,000 (€4,102) as a one-off payment, which can be used to purchase, construct, or reconstruct and refurbish housing units, which need to be owned by war veterans with disabilities. From 2008 to 2021, the RS government delivered housing assistance to 8,281 beneficiaries (RS Parliament, 2021). It is estimated that the government will need an additional KM30 million (€15.4 million) to ensure housing to all eligible war veterans in need (*ibid.*). There is no publicly available information about the distribution of housing assistance to war veterans with disabilities in the FBiH cantons.

## **2 Access to some key general social protection cash benefits**

### **2.1 Old-age benefits**

#### **2.1.1 Pravo na starosnu penziju (Right to old-age pension)**

The right to old-age pension is a social insurance right granted under the entities' pensions and disability legislation (Law on pensions and disability insurance in the FBiH, and Law on pensions and disability insurance in the RS). Both pension systems function under the pay-as-you-go and defined-rights principles. The administration of pensions is the responsibility of two entity pension funds.<sup>13</sup>

#### **a) Eligibility conditions**

Same as for people without disabilities.

#### **b) Additional amount/compensation included and adequacy issues**

Within the system of pensions and disability insurance, old-age pensioners receive only an old-age pension. Hence, old-age pensioners are not provided with any additional benefits in the event of a disability.

#### **c) Gaps/obstacles**

Eligibility conditions for old-age pensions do not stipulate any preferential treatment for people with disabilities. Hence, people with disabilities may acquire old-age pensions under the same conditions as people without disabilities. In general, people who have long-term impairments have difficulty "earning" old-age pensions because they have limited access to registered work, which is a consequence of a small labour market and limited employment opportunities. Although both entities encourage the employment of people with disabilities by applying quota systems and tax reliefs, there are very few people with disabilities in registered employment, which assumes payment of pension

<sup>13</sup> The financing of pensions is conducted through the entity government's treasury system.

and disability insurance contributions. The available evidence in the RS for 2018 indicates that, on average, only 2.99% of people with disabilities were registered as employed under special conditions. However, under the legal requirement defined by the quota system, it should have been 5.88% (The Supreme Office for the RS Public Sector Auditing, 2019). The number of people with disabilities in employment is probably somewhat higher. However, neither entity has a register of people with disabilities, and the total number of people with disabilities in employment is unknown. Neither entity has information about the number of old-age pensioners with disabilities. In the event of disability, old-age pensioners might be eligible for disability benefits under social protection legislation (see Section 1.1.5).

## **2.2 Unemployment benefits**

Unemployment benefits are regulated by entity laws on employment mediation and rights during unemployment (Law on employment mediation and rights during unemployment of the RS, and Law on employment mediation and social security during unemployment in the FBiH), which stipulate three types of assistance for the unemployed. Those are unemployment assistance, payment of health insurance, and payment of pensions and disability insurance.

### **2.2.1 Novčana pomoć za nezaposlene (Unemployment assistance)**

#### **a) Eligibility conditions**

Same as for people without disabilities.

#### **b) Additional amount/compensation included and adequacy issues**

People with disabilities receive the same amount of benefit as people without disabilities. In both entities, the benefit level is inadequate for bridging the loss of income during unemployment. In the FBiH, the benefit is fixed at 40% of the previous three months' average salary in the entity, which currently amounts to approximately KM408 (€209). In the RS, people with less than 15 years of insurance receive 45% of their average salary in the previous three months, while for those with more than 15 years of insurance, the replacement rate is 50% of the average of their previous three salaries. The unemployment assistance cannot be lower than 80% of the minimum wage in the RS (currently, KM472 or €242), nor higher than one average net salary in the previous year (currently, KM1,027 or €527).

#### **c) Gaps/obstacles**

Unemployment benefits are of limited duration. In FBiH, the length of receiving unemployment assistance varies. It is three months for up to five years of insurance; six months for five to ten years; nine months for 10-15 years; 12 months for 15-25 years; 15 months for 25-30 years; 18 months for 30-35 years and 24 months for more than 35 years. In the RS, for 12 months of insurance, unemployed people receive only one month of unemployment assistance; for 2-5 years, three months; for 5-10 years, six months; for 10-20 years, nine months; for 20 to 30 years, 12 months; for 30-35 years, 18 months; and for more than 35 years, 24 months. In both entities, when claiming unemployment assistance for the second time, only the length of insurance accumulated after receiving the previous unemployment assistance is counted.

Although the number of people with disabilities registered as unemployed is available on the statistics portals of the FBiH and the RS employment institutes, there is no information about the number of people with disabilities receiving unemployment benefits. Nevertheless, the coverage of unemployment assistance benefits in both entities is very low. This is due to, on the one hand, the limited duration of unemployment benefits and, on the other hand, a high number of registered unemployed people, among whom the long-term unemployed make up the largest

share.<sup>14</sup> However, in 2020, the number of unemployment assistance beneficiaries rose. In the FBiH, the available data for 2020 suggest a coverage rate of 4.5%.<sup>15</sup> This was caused by the rise in the number of newly unemployed people<sup>16</sup> as a consequence of the economic crisis caused by the COVID-19 pandemic. The average number of unemployment assistance beneficiaries in the RS in 2020 was 3,547 (an increase of 38% over 2019), which represented a coverage rate of 4%.<sup>17</sup> The increase in the RS coverage was mainly due to legislative changes adopted in November 2019, whereby the RS increased the duration of benefits.

Since only a small share of the total number of people with disabilities are active in the labour market in Bosnia and Herzegovina, we can assume that a very small number of people with disabilities become recipients of unemployment assistance.

### **2.2.2 Zdravstveno osiguranje na nezaposlene (Health insurance for unemployed people)**

#### **a) Eligibility conditions**

Same as for people without disabilities.

#### **b) Additional amount/compensation included and adequacy issues**

People with disabilities receive the same benefit as people without disabilities. The benefit gives the right to health insurance paid for by the public employment services (PES). However, the health insurance for the unemployed does not cover the participation costs that most patients are required to meet upfront when receiving healthcare services.

#### **c) Gaps/obstacles**

In the FBiH, most people registered as unemployed have a right to health insurance paid for by their cantonal PES. Thus, in 2020, the average number of people who received health insurance was 221,208, or 69% of the total number of registered unemployed people. People with disabilities who cannot realise the right to health insurance through the PES have the right to health insurance as beneficiaries of social assistance benefits (i.e. war veterans with disabilities, civilian victims of war or people with disabilities under general social assistance legislation). The legislation envisages that these beneficiaries have the right to health insurance paid for by the responsible ministry if not already insured on some other basis. However, the Law on principles of social protection in the FBiH, as the general social assistance law, does not stipulate any benefits for people with less than 90% disability. The right to health insurance of people with less than 90% disability might be ensured under cantonal health insurance legislation.

In the RS, health insurance is paid only for the time people receive unemployment assistance. Hence, only some 4% of registered unemployed people in 2020 received health insurance paid for by the RS Employment Institute. If the duration of unemployment exceeds this period, unemployed people must apply for health insurance to the RS Health Insurance Fund directly. Unemployed people whose family income is below the social assistance threshold, and people with disabilities whose status is recognised under the social assistance legislation, have the right to health insurance paid for by the responsible ministry. As in the FBiH, people with lower levels

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<sup>14</sup> Around 70% of unemployed people are registered as unemployed for longer than one year.

<sup>15</sup> The average number of unemployment assistance recipients in 2020 was 14,620, while the average number of registered unemployed people was 321,581 (FBiH Employment institute, 2021).

<sup>16</sup> In the FBiH, the average number of registered unemployed people in 2020 rose by 2.55% compared with 2019, to 321,581 (FBiH Employment institute, 2021).

<sup>17</sup> The average number of registered unemployed people in 2020 in the RS was 86,695 (a fall of 3.5% compared with 2019) (RS Employment Institute, 2021).

of disability (below 70%) do not have the right under the general social assistance legislation to social assistance benefits, which implies that they do not have the right to paid health insurance.

### **2.2.3 Uplata doprinosa za penzijsko i invalidsko osiguranje (Payment of pensions and disability insurance contributions)**

#### **a) Eligibility conditions**

The same as for people without disabilities.

#### **b) Additional amount/compensation included and adequacy issues**

People with disabilities receive the same benefit as people without disabilities.

#### **c) Gaps/obstacles**

The PES pay the pensions and disability insurance contributions towards beneficiaries' pensions insurance directly to the responsible entity pension fund. The amount of contributions corresponds to the minimum contribution payment in the entity. In 2020, there were on average 769 unemployed people in the RS, and 472 on average in the FBiH, benefiting from these provisions (RS Employment Institute, 2021, p. 45; FBiH Employment Institute, 2021, p.13). There is no information about the number of people with disabilities who benefit from these provisions.

## **2.3 Guaranteed minimum income schemes and other social assistance benefits**

The right to guaranteed minimum income benefits is regulated by general social assistance legislation at the level of entities and the Brčko District (Law on principles of social protection of the FBiH, Law on social protection of the RS, and Law on social protection of Brčko District), and in the FBiH by cantonal social assistance legislation. In both entities, the implementation of these rights is the responsibility of local authorities. The benefits are mainly provided through centres for social work, which operate at the level of local authorities, or departments for social welfare in local authorities that do not have a centre for social work.

### **2.3.1 Novčana pomoć (Social assistance)**

#### **a) Eligibility conditions**

In both entities and Brčko District, one of the main eligibility conditions is a fully reduced working capacity, which assumes a certain level of disability or a functional impairment that might be due to a disability, a disease or old age. The beneficiary must also meet means-tested eligibility criteria, such as: having an income below the amount of assistance provided by the law; having no housing space or other property that could be used for generating income; and having no relatives, who are responsible for providing for them under family law. In FBiH cantons, eligibility might depend on additional conditions such as not having a vehicle. However, vehicles for people with disabilities are generally not considered as an obstacle to receiving the benefit.

#### **b) Additional amount/compensation included and adequacy issues**

People with disabilities do not receive an additional benefit on the basis of their disability. In the FBiH, the benefit formula is determined by cantons. In most cantons in the FBiH, the monthly benefit amounts to between KM100 (€51) and KM120 (€61.50) for a one-person household. In the RS, the benefit is based on the average net wage in the previous year and its payment depends on the number of people in the household. It varies from KM144 (€74) monthly for a single person to a maximum



KM287 (€147) monthly for households with five or more members.<sup>18</sup> These benefit amounts are below the estimated absolute poverty thresholds of €122.10 monthly in 2007 and €138.90 monthly in 2011 (Initiative for Better and Human Inclusion, 2013) and way below the government's relative poverty threshold of €199.60 monthly, based on consumption data (Agency for Statistics of BiH, 2018). Hence, the benefits provided are not sufficient to cover the main living expenses and confine the beneficiaries of social assistance to living in extreme poverty.

### c) Gaps/obstacles

Many people with disabilities are without work capacity, which qualifies them for the social assistance benefit provided they meet other conditions, primarily those related to a lack of income and lack of property. Also, recipients of disability benefits under the social assistance laws may be eligible for means-tested social assistance benefits, as these two types of benefits do not exclude each another. Furthermore, many people with disabilities, especially older people who do not meet the conditions for disability benefits under the social assistance legislation (because the disability threshold for receiving the benefits is set too high<sup>19</sup>) might be eligible for means-tested social assistance.

Based on the Agency for Statistics of BiH (2021a, p. 40) aggregate data for the country, permanent assistance (a means-tested benefit) was received by only 14,571 adults in 2020, which was around 0.5% of the estimated adult population for the same year.<sup>20</sup>

The reasons for such a small population coverage are the very harsh eligibility conditions and administrative hurdles, which make the benefit inaccessible for many people living without an adequate income.

Given the very stringent eligibility conditions for social assistance and the small amounts of benefits provided, means-tested social assistance expenditure in 2019 altogether made up only 10.7% of total social assistance expenditure in the country, or 0.4% of the country's GDP (Agency for Statistics of BiH, 2021b). Such a financing level makes the means-tested social assistance the least well financed social assistance scheme.

## 2.3.2 Jednokratna novčana pomoć (One-off social assistance)

### a) Eligibility conditions

The eligibility conditions are the same for all individuals. However, as applications for one-off social assistance are assessed individually, people with disabilities might be in a better position to receive the benefit than people without disabilities. The benefit is granted to individuals or families in the event of social need caused by poverty, elementary disaster, war damage, refugee status, migrations, the death of one or two members of the family, long-term health treatment, or other unforeseeable circumstances. Beneficiaries of social assistance are eligible to apply, as well as other citizens, such as pensioners and people with low earnings. The exceptions are families who own a vehicle (excluding vehicles for people with disabilities), and if one family member is the owner of a company, a crafts business or self-employed entity.

### b) Additional amount/compensation included and adequacy issues

The amount of the benefit is decided for each individual case and it is possible that people with disabilities receive a higher amount of benefit due to their disability. In the FBiH, the benefit amount is regulated by cantonal legislation and by-laws adopted by local authorities. For example, in the Sarajevo Centre local authority, it amounts to

<sup>18</sup> The amount of benefit paid in 2021 is based on the average net salary for 2020.

<sup>19</sup> In the RS, only people with a functional impairment (i.e. beneficiaries of carer's assistance) and at least 70% disability, and in the FBiH at least 90% disability, receive disability benefits.

<sup>20</sup> Based on the Agency for Statistics of BiH estimates for 2020, the adult population numbered 2,884,734.

KM700 (€359), which in some exceptional circumstances can be doubled. In the FBiH, the one-off assistance can be paid twice a year (subject to an annual maximum). In the RS, the benefit cannot be higher than the amount of social assistance for three months (calculated based on the number of family members). Under exceptional circumstances, the centre for social work director may decide to grant a higher benefit, which cannot be higher than three times the regular maximum amount.

### **c) Gaps/obstacles**

In most cases, one-off assistance is provided to cover beneficiaries' medical expenses. It is usually given in cases where beneficiaries are registered for health insurance, but their contributions have not been paid, or if the required health treatment is not included in the package of services provided by the health insurance fund. In the RS, the decision is made by the commission for one-off assistance for health protection established by the responsible local authority. Recipients of permanent social assistance may also be granted one-off social assistance, which can be used for specifically defined purposes, such as covering the cost of fuel for heating, and the purchase of books for schoolchildren. Under justifiable circumstances, people with all categories of disability may be eligible for one-off assistance. However, the decision will also depend on whether the local authority or centre for social work has funding available for this purpose.

## **3 Provision of assistive technology and personal assistance**

### **3.1 Assistive technology**

In BiH, the provision of assistive technology is stipulated by the entities' laws on health insurance and by-laws regulating access to orthopaedic and other aids. In terms of conditionality, orthopaedic and other aids are not means-tested. However, people requiring aids need to have health insurance. People seeking aids need to have a prescription from a doctor, based on a so-called medical indication for using an aid.

The ways in which such aids can be accessed vary in the country depending on people's place of residence and the category people with disabilities fall into. In the FBiH entity, the provision of assistive technology is the responsibility of cantonal health insurance funds, and the actual scope of rights to orthopaedic and other aids is regulated by cantonal by-laws in the realm of health insurance. In the RS, the rulebook on the right to medical aids defines the conditions and manner in which the right to orthopaedic and other aids, as stipulated by the entity's Law on health insurance, can be realised. In the Brčko District of BiH, the rulebook on the right to orthopaedic and other aids of insured people of the District's Health Insurance Fund regulates access to aids.

Funding amounts for orthopaedic and other aids vary from one health insurance fund to the next. Generally, such funding is described as limited, with certain groups – such as war veterans – having priority access to orthopaedic aids. Nevertheless, according to a report by the Ministry of Human Rights and Refugees of BiH, there is a rising trend in expenditure on procuring orthopaedic aids in the FBiH entity, with the total cost amounting to KM27.3 million (€13.9 million) in 2018 (MHRR BiH, 2020). In the RS, the cost of procuring orthopaedic and other aids rose between 2020 and 2021, from around KM7.5 million (€3.8 million) to around KM8.5 million (€4.3 million). In 2021, 21,936 insured people received help through the RS Health Insurance Fund.

In general, people with disabilities can only access orthopaedic and other aids that are included on a list stipulated by health insurance funds; aids that are not covered by the relevant by-laws can only exceptionally be funded by a health insurance fund. Most health



insurance funds procure orthopaedic and other aids from suppliers based on a contract.<sup>21</sup> If the real cost of an aid exceeds the amount of funding stipulated by the relevant by-law, the difference is covered by people with disabilities. As elaborated in Sections 1.1.3, 1.1.4 and 1.1.5, some categories of beneficiaries receive financial assistance for orthopaedic aids. In addition to these financial benefits, war veterans with disabilities in the FBiH are entitled to additional assistance under cantonal legislation that guarantees extended rights to war veterans. The assistance for orthopaedic aids for war veterans in the FBiH cantons covers the difference between the cost of orthopaedic aids covered under the health insurance legislation and the actual cost of orthopaedic equipment. Hence, it covers the amount that other people with disabilities pay as an out-of-pocket payment. In the RS, war veterans with disabilities are exempt from the participation costs and can obtain funds to purchase aids of their choice.<sup>22</sup>

Associations of people with disabilities often complain about the inadequacy and poor quality of orthopaedic and other aids, which may even worsen the health of people using them, as well as the inability to access new aids due to long expiry dates (e.g. MHRR BiH, 2020; Canton of Sarajevo, 2018). People in need of such aids often have to find alternative ways of procuring them, such as through associations of people with disabilities, or from international donors (Canton of Sarajevo, 2018, p. 20). Moreover, with some exceptions, modern types of equipment, such as ICT-based assistive devices (e.g. software, electronic communication boards, and keyboards) tend to be absent from the regulations stipulating the lists of aids that may be provided.

### 3.2 Personal assistance

With regards to the provision of personal assistance, neither entity has legislation in place that regulates the provision of personal service as such. Although the general social assistance legislation in the entities recognises the right to support and care at home, in practice such support is generally narrower than it should be. Based on cantonal laws on social assistance and the RS Law on social protection, these services can be offered by the local authorities as "extended rights". Some local authorities, such as the City of Banja Luka, have regulated the provision of personal assistance services, stipulating up to 120 hours of personal assistance a month to people who have a right to a carer's benefit (category 1), as well as adults who receive no assistance from their family, or who live alone and are recognised as requiring such a service. In 2017, the Brčko District government introduced a similar measure by adopting a decision on the extended rights in social protection, relating to support for personal assistance service (Radiobrcko.ba, 2017).

In addition to the fact that personal assistance is generally not stipulated as a social service to be delivered to people with disabilities, its provision is further complicated by the fact that the profession of personal assistant is not recognised as such in some parts of the country. For instance, it is not regulated by the by-law that categorises professions in the FBiH, and a personal assistant can either be employed as a medical assistant or as an administrative assistant (Kotur and Huremović, 2021). Moreover, training opportunities for personal assistants are scarce. Training tends to be provided on an informal basis by NGOs. In the RS, a certificate of the completion of training for personal assistants, recognised by the relevant ministry, can be obtained from the Socio-educative Centre, an educational institution in Banja Luka.

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<sup>21</sup> In the case of some cantons (e.g. Tuzla Canton), people with disabilities are refunded for aids bought at a recognised supplier for an amount within the respective health insurance fund's limits. Also, in Brčko District, people with disabilities can select the supplier of the aid, which is subsequently reimbursed by the health insurance fund.

<sup>22</sup> This was introduced in 2018, on the basis of an agreement signed between the RS Health Insurance Fund and the responsible RS Ministry of Labour and War Veterans Protection, which gives war veterans with disabilities the option to receive financial assistance for the purchase of orthopaedic aids or wait for their required orthopaedic aid to be supplied by the RS Health Insurance Fund. It replaced the earlier practice of supplying orthopaedic aids based on health insurance legislation, which still applies to other categories of people with disabilities.

Some personal assistance projects, funded by international donors, have been implemented by different non-governmental organisations (NGOs) in the country. However, these are financed on an ad hoc basis and are generally not supported by governments, with some exceptions (Kotur and Huremović, 2021), as in the case of Banja Luka.

Given that personal assistance is weakly regulated throughout the country, there is no guarantee that personal assistants are well trained to respond to the individual needs of people with disabilities, nor that they will receive adequate compensation for their work. Moreover, there are currently no associations of personal assistants that can advocate for better working conditions and rights (Kotur and Huremović, 2021). All of this makes it difficult for people with disabilities to recruit personal assistants who would be able to adequately respond to their needs.

## 4 National debates, reforms and recommendations

### 4.1 National debates

Most associations of people with disabilities are organised by the type of disability or status of people with disabilities. Therefore, most of these organisations work on promoting particular rights of people with disabilities, such as the rights of blind people, the rights of civilian victims of war, or the right to inclusive education for children with disabilities. Given the scarcity of available public resources for people with disabilities, these organisations often have competing interests.

Public debates over the rights of people with disabilities are usually initiated by groups representing the particular interests of different status groups of people with disabilities. Those are primarily war veterans with disabilities and different categories of civilian victims of war who have not obtained rights under existing legislation or in the amount they had hoped for. Among those are prisoners of war and children born of rape, as potential beneficiaries under the legislation on civilian victims of war. For instance, the Association of War Prisoners of BiH has lobbied for a state law that would serve as a framework law and ensure minimum protection in all parts of the country for people who experienced torture in prison camps during the war (Detektor.ba, 3.9.2021).

Although war veterans with disabilities are portrayed in the media as the most deserving social group to receive benefits, and their benefits are the highest, critics argue that among them there are many who receive benefits undeservedly. This has been enabled by the procedure for verifying war veteran status (including the status of civilian victims of war), as well as the procedure for disability assessment, which are not independent of the influence of ethnic political parties (Obradović and Filic, 2019; Centre for Investigative Journalism, 25.01.2022). Public discussion of the problem of undeserving war veteran beneficiaries was triggered in 2009 during the economic crisis. The entities came under pressure from the International Monetary Fund (IMF) to reduce war veteran expenditure in order to stabilise the public finances. At the same time, the governments were under pressure from war veteran associations to keep the benefits at the existing level. The FBiH government agreed with the IMF to reduce the costs by undertaking eligibility audits of war veterans,<sup>23</sup> including those with disabilities (Bosnia and Herzegovina, 2010). The idea was to reduce expenditure by excluding those who received benefits on the basis of falsified medical documentations and false claims. The FBiH government has been conducting eligibility audits since 2010. However, the process has been criticised on different grounds, and its effects thus far remain ambiguous (Slobodnaevropa.org, 28.04.2016; Obradović, 2016; Centre for Investigative Journalism, 25.01.2022).

The voices of the most disadvantaged group of people with disabilities (those who receive benefits under the general social assistance legislation), and of people with disabilities who

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<sup>23</sup> For that purpose, the FBiH passed the Law on implementing the control of war veteran rights.

had a work injury or professional illness, mostly go unheard. For instance, benefits for people with disabilities under the general social assistance legislation in the FBiH have not been increased since 2009, while benefits for other groups of people with disabilities are increased regularly at the beginning of the year. Nevertheless, there have not been any public discussions about the adequacy of benefits for people with disabilities that are not war-related.

The recent adoption of the Law on parent carers in the FBiH stirred public debate about the needs of people with disabilities under the general social assistance legislation that requires constant care for another person (Obradović, 2021b). However, the focus of these discussions was narrowed down to the needs of this particular group and their families. There are only rare debates about eliminating the existing discrimination in access to financial benefits and improving the overall status of people with disabilities under the principles of non-discrimination and inclusion. These issues are also not given attention in the media.

## 4.2 Recent reforms and reforms currently in the pipeline

The recent legislative developments concerning disability rights in both entities have been aligned with the past and the current strategic documents in this field – the RS strategy for the improvement of the social status of people with disabilities for 2017-2026 (RS Ministry for Health and Social Protection, 2017), and the FBiH strategy to advance the position of people with disabilities for the period 2016-2021.

In 2018, the RS passed the Law on the protection of victims of war torture, which stipulates rights for a special group of civilian victims of war – prisoners of war camps and victims of torture, including those who experienced sexual violence and rape. One of the reasons for adopting this law was that the RS Law on civilian victims of war had expired, and the fact that its strict conditionality left many potential beneficiaries uncovered.

In 2019, the RS entity introduced the disability benefit for people with disabilities under the social assistance legislation.<sup>24</sup> The benefit is granted to people with at least 70% disability,<sup>25</sup> assessed on the basis of the by-law for pension and disability insurance, and subject to the condition that claimants already receive the carer's assistance. In this way, the RS reintroduced medical assessment of disability for people who had already passed a functional ability assessment (required for the carer's assistance benefit).

The major development in the FBiH entity concerns the adoption in the second half of 2021 of a new list of disabilities and a new rulebook for assessing disability under the law on social assistance.<sup>26</sup> The new list of disabilities and the new rulebook should be applied universally for medical assessments of all people with disabilities, irrespective of the cause and time of disability. However, the old by-law will still apply to beneficiaries who acquired their rights previously. The latter are primarily war veterans with disabilities who undergo the eligibility audit.<sup>27</sup> Hence, the new by-law will apply primarily to people with disabilities under the general social assistance legislation and for the assessment of disability under pension and social insurance legislation.

New applications from civilian victims of war in the FBiH are currently rare, but the entity ministry is working on a new law on civilian victims of war. The new law is likely to grant

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<sup>24</sup> Before these changes, people with disabilities only had the right to the carer's assistance.

<sup>25</sup> The right was introduced one year earlier by the RS Government Decision ("Official Gazette of the RS", 53/18), which granted disability benefits to people with 80-100% disability, based on medical examinations in accordance with the by-law regulating rights as stipulated by pensions insurance. The amount of the benefit was KM100, starting from July 2018.

<sup>26</sup> On 23 May 2019, the FBiH government instructed the Institute for Medical Examination to establish a committee to develop a new single list of disabilities and rulebook, with criteria and procedures for medical health assessments (FBiH Government, 23.05.2019). Hence, the development of the new list of disabilities took two years.

<sup>27</sup> According to some FBiH government sources, there are only about 1,000 war veterans with disabilities who should undergo the eligibility audit, which entails a new medical assessment of disability.

rights to children born out of rape during the war. The new law will probably abolish the existing income conditionality for family benefits of civilian victims of war. Possible beneficiaries of the new law might also include people imprisoned during the 1992-1995 conflict and the population affected by post-traumatic stress disorder syndrome (Detektor.ba, 03.09.2021).

Another novelty in the FBiH is the development of a law on social services, currently in draft form, which seeks to regulate the provision of various social services more systematically. A February 2021 draft of the law, which was issued for public consultation, envisages a set of services to support people living in their community, and includes at-home support from service-providers who are legal persons (FMLSP 2021, art. 17; 24). Although more comprehensive personal assistance is not listed in the draft, non-governmental organisations have been advocating for this type of service and there has been some discussion of personal assistance being included in the draft of the law (e.g. RTV Slon, 2021). Nevertheless, according to information received from the FBiH Ministry of Labour and Social Policy (FMLSP, 31.01.2022), the latest version of the draft law – which has recently been shared with responsible cantonal ministries – did not include personal assistance as a service. According to the ministry, the matter of introducing a right to personal assistance is a competence of the cantonal ministries responsible for social protection.

Ever since the country adopted the UN Convention on the rights of persons with disabilities (CRPD) in 2010, the entity strategic documents for people with disabilities have called for the end to discrimination against people with disabilities. The responsible FBiH ministry previously took some steps towards abolishing this discrimination, but the initiative did not have the required political support.<sup>28</sup> The current RS strategy (RS Ministry for Health and Social Protection, 2017) calls for the harmonisation of the rights of people with disabilities across all sectors, while taking into consideration international standards and the EU action plan for people with disabilities. One of the strategic objectives in the RS is the introduction of minimum social security for all people with disabilities by applying universal conditionality, irrespective of the cause of the disability, and equal treatment of all people with disabilities within the healthcare system. The corresponding action plan for implementing the strategy envisages: harmonising disability assessment procedures, to be overseen by the inter-sectoral working group formed by the RS government (planned for the period 2020-2026); establishing a single database on people with disabilities in the RS; and developing a new by-law that would regulate the rights to orthopaedic aids, which would simplify the procedure and introduce changes in procurement (i.e. introduce financial assistance), etc.

At the time of writing, the FBiH strategy to advance the position of people with disabilities for the period 2016-2021 has expired, and the responsible FBiH Ministry of Labour and Social Policy is currently drafting the report on its implementation. The report should be presented to the FBiH government in spring 2022. It is expected that the ministry will draft a new strategy on disability for 2021-2027, aligned with the current strategic cycle, defined by the FBiH development strategy for 2021-2027.

### **4.3 Good practice and recommendations on how to tackle gaps and obstacles**

Although access to assistive technology is, as previously noted, hampered by predefined lists of aids recognised for procurement, some progress has been made by individual governments in terms of ameliorating such access. For instance, in the case of the Health

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<sup>28</sup> In 2014, the FBiH Ministry of Labour and Social Policy drafted a law on uniform principles and the framework for disability support for people with disabilities, which incorporated the principles of the CRPD, ensuring equal treatment for all people with disabilities, regardless of the origin of the disability. The idea was that all people with disabilities would receive the same benefits, while the rights of war veteran groups would be regulated by a separate law, which would provide compensation for war veterans. The draft law was adopted by the FBiH government in 2014 and sent to the parliament, but was never adopted.

Insurance Fund of the Tuzla Canton, the list of orthopaedic and other aids is evaluated annually in consultation with associations of people with disabilities, and expanded in accordance with the canton's financial situation (MHRR BiH, 2020). In the RS entity, the RS Health Insurance Fund (27.01.2022) has recently improved access to aids by reducing the duration or expiry dates of some aids (for instance, from 10 to 5 years for motorised wheelchairs), thus making it possible for people to obtain a new aid earlier. Moreover, the age limits for accessing some types of aids have been raised, such as access to active wheelchairs for people over 65.

Although personal assistance as a field generally remains unregulated in the country, some local government authorities have set up partnerships with civil society to provide such services. For instance, since 2007 the centre for social work of the City of Banja Luka has had an ongoing co-operation contract with the NGO "Partner" to deliver personal assistance to people with disabilities and provide training for personal assistants (Kotur and Huremović, 2021, [Mojabanjaluka.info](http://Mojabanjaluka.info), 2018). Such services are financed by the city of Banja Luka and the centre for social work. Personal assistants are hired by the NGO on a work contract, in line with the labour law, to deliver services (Kotur and Huremović, 2021).

Even though the country has ratified the UN CRPD and pledged to fight against all forms of discrimination against people with disabilities, the entities still generate discrimination against people with disabilities by implementing different status-based legislation for people with disabilities. The FBiH recently took an important step by introducing a single list of disabilities, which should be applied to all disability assessments in the future. The next step for the FBiH should be to abolish the existing discrimination in the level of benefits. This could be done by changing the status-based legislation and equalising disability benefits across all the different status groups of people with disabilities, or by replacing the existing legislation with one law that would regulate the financial benefits of all people with disabilities, under the principles of non-discrimination and inclusion. The same steps should be taken by the RS and other levels of government that provide disability benefits. In addition, the country should strengthen data-collection mechanisms, ensuring that comprehensive, reliable and disaggregated data on disability and people with disabilities are collected, in line with Article 31 (statistics and data collection) of the UN CRPD provisions.

In the assistive technology realm, steps need to be taken to reduce inequality in access different types of orthopaedic and other aids and improve the quality of the aids provided, as stipulated by the relevant by-laws. Such access is especially problematic in the FBiH, where further legislative efforts need to be taken to harmonise the types of assistive technologies that people with disabilities should have access to (possibly through by-laws adopted at the entity level). Predefined lists of aids should ideally be evaluated and updated each year, in consultation with beneficiaries, so that they cater appropriately to their needs.

Personal assistance needs to be better regulated in both entities. Ideally, the right to personal assistance as a social service should be prescribed by relevant entity-level legislation to ensure that the service becomes accessible in all parts of the country, while the burden of its financing should not only be on local authorities but rather shared between all levels of government responsible for social protection. Regulation of personal assistance should cover not only the conditions for, and scope of access to, the service, but also quality standards and educational programmes for personal assistants to obtain high-quality training. Personal assistants should also be guaranteed adequate salaries and working conditions so that they can meet the needs of people with disabilities requiring their support.

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