

**STATUS OF PERSONS WITH DISABILITIES IN THE REPUBLIC OF SERBIA WITH  
SPECIAL REFERENCE TO THEIR EMPLOYMENT**

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**Abstract:** At present social and economic development in Serbia, which is characterized by a series of reforms at all levels of the system, special attention is paid to creating conditions for the possible quality of life of socially excluded groups of citizens, including the largest group representing people with disabilities.

The technique of selective employment of disabled persons should provide appropriate jobs according to their remaining working abilities with full motivation of employers who see them as the imposed "workforce".

At the national level, the whole set of documents (laws and bylaws), which the state tried to regulate the basic guidelines of employment and full inclusion of persons with disabilities in the labor market, thereby seeking to ensure respect for human rights and dignity of persons with disabilities as well as complete their inclusion in all spheres of social life.

**Keywords:** employment, people with disabilities, law.

The inclusion of the Republic of Serbia in the European integration processes in view of economic, economic and social development, development of the institutions of a modern and efficient state based on the rule of law, which contributes to a better quality of life for all its citizens. The quality of life of citizens of a state, in terms of the State's responsibility includes creating the conditions for the exercise of the rights of all citizens, regardless of their differences, in all areas of their lives. Employment and making the right to work is one of the basic human rights, and at the same time is the basis to realize the quality of life of all citizens because it allows economic independence and improve the performance of personal experience and involvement in the community.

It is believed that in the after 1955, and with the specific function of the United Nations, was born the idea of today's modern concept of vocational rehabilitation and employment of disabled persons. The United Nations has introduced a special office for the rehabilitation of disabled persons, and for this purpose they used their UN specialized agencies, especially the World Health Organization; UNESCO, UNICEF and the International Labour Organization. In the Declaration of Human Rights (1948) and the Declaration on the Rights of the Child (1968) were built and the rights of disabled people to education, employment and other measures that allow the disabled face a normal life. The International Labour Organization rehabilitation and employment of persons with disabilities associated with obligations companies and employers.

The Republic of Serbia has adopted a number of regulations in the field of employment should enable equal participation of people with disabilities in the labor market thereof is full employment. These regulations are in line with basic international documents, as well as regional acts of the European Union and the Council of Europe, which is the state of Serbia ratified, accepted and brought in laws and other regulations, such as the *Convention on the Rights of Persons with Disabilities*, the *European strategy for persons with disabilities 2010-2020*, *United Nations Standard rules on the equalization of opportunities for persons with disabilities* (1993), *Convention on Vocational rehabilitation and employment of persons with disabilities C 159* (1983), *Recommendation on Vocational Rehabilitation and Employment of Persons with Disabilities R 168* (1983) and other (Milanović, 2011). Universal standards on employment of persons with disabilities are included in the sources of the International Labour Organization, most notably Convention No. 159 on *Vocational Rehabilitation and Employment of Persons with Disabilities*. All this international document establishes the obligation of the Contracting States, including the Republic of Serbia, to formulate, implement and periodically review their national policy on vocational rehabilitation and employment of persons with disabilities, guided by the dual objectives: First, is the request that the extent of respective vocational rehabilitation to make available to all categories of persons with disabilities, while the second goal consists in improving the possibilities for persons with disabilities to be employed on the open market, while respecting the principle of equal opportunities for workers with disabilities and workers in general.

The legislator in the Republic of Serbia, saw the standards of the Council of Europe, to which it is otherwise bound by the ratification of the Revised European Social Charter (ratified and published in the Official Gazette of RS, No. 42/09), and which confirmed the right of persons with disabilities to independence, social integration and participation in community life. At the same time the national plan was adopted a number of

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documents (laws and bylaws), which the government is trying to regulate the basic guidelines of employment and full inclusion of persons with disabilities in the labor market, thereby seeking to ensure respect for human rights and dignity of persons with disabilities and as fully as their inclusion in all spheres of social life. It started with the Law on determining the duties and tasks for compulsory recruitment blind disabled workers and other blind persons (Official Gazette of RS, No. 67/93) where the legal entity has committed to certain posts employing blind persons relevant profession or professions (jobs telephonists, physiotherapists, etc.). According to the provisions of this Act every five workers who perform these activities were the responsibility of the employer to hire a blind workers.

In making the laws of Serbia is trying to move closer to European and world standards in this area. Consequently were adopted: Labor Law (Official Gazette of RS, No. 24/05, 61/05, 54/09, 32/13 and 75/14); Employment Law Unemployment Insurance (Official Gazette of RS, No. 36/09, 88/10, 38/15); The Law on Vocational Rehabilitation and Employment of Persons with Disabilities (Official Gazette of RS, No. 36/09 and 32/13). And in the context of the National Employment Service has adopted a whole set of regulations which among other things regulates the service of employment of persons with disabilities: the Ordinance on the method and criteria for the implementation of active employment policy (Official Gazette of RS, No. 12/12, 20/13 and 69/14); Rules on more detailed manner, costs and criteria for the assessment of work capacity and the possibility of employment or maintenance of employment of persons with disabilities (Official Gazette of RS, No. 36/10); Rules on the manner of monitoring the execution of the obligation to hire persons with disabilities and manner of proving that obligation (Official Gazette of RS, No. 33/10, 48/10 and 113/13); Rules on the content of the data and the manner of keeping records in the field of employment (Official Gazette of RS, No. 15/10); Instruction on the conditions for the inclusion of the unemployed in active employment policy measures (Official Gazette of RS, No. 97/09).

The importance of this law lies in the fact that it specifically defines a disabled person, which in Article 3, states: *A person with disabilities, in terms of this Act, shall be the person with the permanent consequences of physical, sensory, mental or psychological impairment or disease which can not be cured by treatment or medical rehabilitation, which is faced with social and other constraints affect the ability to work and the possibility of employment or maintenance of employment and who have no opportunity or reduce the possibility that, under equal conditions, turn on the labor market and to compete for employment with other persons.* So that the law precisely defines persons with disabilities as well as to that person within the meaning of this law shall be considered unemployed, the law stipulates that it can only be a person older than 15 years (when the acquired ability to work) and younger than 65 years (when acquired by the last condition for eligibility for old age pension). In further defining that person is considered disabled under the provisions of this law, it is established that it can be any person who is not employed, and that in no way did not realize the right to work and is ready to work and to accept professional rehabilitation for employment and actively seeking a job that in fact leads registered as unemployed with the organization in charge of employment.

The requirement to exercise all rights according to the Act, is that the person is determined by the status of persons with disabilities. The status of persons with disabilities, in terms of member 4 of the Law (the Law on Vocational Rehabilitation and Employment of Persons with Disabilities) has: 1) a disabled war veteran; 2) peacetime veteran; 3) civil war invalid; 4) a person who has made categorization and another person whose disability is determined, in accordance with the law; 5) a person who, in accordance with the regulations on pension and disability insurance, defined category of disability, and the remaining work capacity; 6) a person who, in accordance with this law, the assessment of work capacity pursuant to which it has the possibility of adverse possession employment or employment or work engagement.

The law also defines the criteria for employers in terms of employment of persons with disabilities, taking into account how long the company has been operating and the number of employees, and determine the criteria on the basis of the number of employed persons with disabilities in relation to the number of employees without disabilities. If the employer is unable to fulfill the prescribed obligation employment law provides for alternative measures (primarily financial in nature-payments to the budget fund - monthly penalties in the amount of three times the amount of income people with disabilities by the employer is not employed), or signing a contract on business and technical cooperation , purchase of goods or provision of services to the company for professional rehabilitation and employment of persons with disabilities).

Recent law which have fought people with disabilities is the right to employment. People with disabilities in an age full of work activities, almost all Member States of the European Union, represent one of the groups that are socially excluded or at high risk of poverty and social exclusion in general, and with the labor market. According

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to the National Employment Service in Serbia (Šestić-Radic, 2009:9), of the total number of employed persons with disabilities, the attitude of men and women in favor of men, or 61% of employed men with disabilities compared to 39% of women.

In the process of assessment of work ability assessment applies to bodily functions and the level of these functions, as well as the assessment of social, psychological and other factors that affect the working capacity and the possibility of employment or maintenance of employment in accordance with the principles defined by the *International Classification of Functioning Disability and Health* (member 4. paragraph 2, and 3, of the aforementioned Rules). That is, this Ordinance regulates the score closer to the working abilities of persons with disabilities reviewing the medical, social and other criteria which determine the ability of persons with disabilities in order to include the labor market and the performance of specific tasks, independently or with assistance.

Employment of people with disabilities, particularly people with intellectual disabilities, it is very important, given that it is a group of people who for decades was outcast from all social flows, resulting in a lack of skills and lack of opportunities that they present themselves on the labor market.

Law on professional rehabilitation and employment of persons with disabilities in Serbia was established in *Budget Fund* for professional rehabilitation and promotion of employment of persons with disabilities indefinitely. It is managed by the ministry in charge of employment affairs. The Government of the Republic of Serbia adopted the Decision on the establishment of the Budget Fund (Official Gazette of RS, no. 36/10), for the purpose of encouraging employment and professional rehabilitation of unemployed persons with disabilities, subsidized wages of persons with disabilities in the company for professional rehabilitation and employment of these persons or employment in future social enterprises and organizations. Assets that employers paid into the Fund (the obligation to pay employers who are not employed by the law specifies the number of persons with disabilities) would be used to improve working conditions, improvement of production program, introduction of standards, improving the quality of products and services, adapting work places as well as in other purposes in accordance with the law. An employer who fails to hire people with disabilities, is obliged to pay the sum of 50% of the average salary in the Republic of Serbia according to the latest published data of the authority responsible for statistics for each person with a disability that is not employed.

Specific forms of employment and work opportunities for people with disabilities, who have the goal of employment or engagement and improving the quality of life of people with disabilities may, under the provisions of the Law on professional rehabilitation and employment of persons with disabilities will be organized as follows: 1. the Company for vocational rehabilitation and employment persons with disabilities; 2. Work centers; and 3. Social enterprises and organizations (Member 34).

Sheltered workshops are the best known forms of job training, vocational rehabilitation and employment. Area of vocational rehabilitation and vocational training, and employment is regulated before the Law on Vocational Rehabilitation and Employment of Persons with Disabilities, the first in the Law on Enterprises for training and employment of disabled persons (Official Gazette of RS, no. 15/90), and later in law on Vocational training and employment of Disabled Persons (Official Gazette of RS, nos. 25/96 and 101/05). According to data UIPS's first company for employment of disabled persons was formed in Belgrade in 1946 under the name "Unity", later formed several companies that receive a recognizable name of DES (of abbreviations: defective hearing). Company for professional rehabilitation and employment of persons with disabilities is a legal entity that employs people with disabilities and make their professional rehabilitation in accordance with the Law on professional rehabilitation and employment of persons with disabilities. The purpose of establishing these companies is to create new jobs and employment of persons with disabilities.

Long time in our rehabilitation practice believed that the concept of sheltered workshops are the best solution for the professional training of persons with disabilities. However, the practice has largely shaken by this attitude, so this is an opinion over time have lost a huge number of supporters in the literature. In the last decades, they bore some other, alternative models of employment of persons with disabilities and their integration in the economic environment was preceded their social integration. At the end of the eighties in many developed countries there is a turning point in the strategy of rehabilitation of persons with disabilities and of the concept of sheltered workshops to promote supported employment programs, which promote integration (especially in recruiting) but in order to truly improve the quality of life of people with disabilities, and to minimize their marginalization and to improve their involvement in all aspects of the community in which they live.

Supported employment is characterized by the following three elements: 1. The financial compensation received by persons with disabilities to work for part or full-time, or to work in seasonal jobs, etc., 2. integration of

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persons with disabilities in the work environment in which they are included and "disabled" and "foolproof" persons, 3. with the sustainable employment of persons with disabilities have the right to support and training for the specific work performed. Therefore, the very term "employment protection" is meant employment in jobs assume special conditions. The main objective of protecting employment is meeting the needs for professional rehabilitation and employment of persons who due to their specific disability are not able to find employment elsewhere, and the final goal of such employment may indicate that after some time spent in protective conditions, may enable a larger number of persons with disabilities that can be employed in the open economy. Sheltered workshops have had a privileged position in terms of financial obligations to the state, so they were exempt from paying customs duties on imports of equipment and facilities, income taxes and other financial facilities.

In Serbia operate 40 of these companies, 15 operate in the territory of Vojvodina, 4 in Belgrade and the other 21 on the territory of central Serbia. In 2012, employed a total of 2,122 workers, and their number has decreased on average by 27% compared to the previous year 2011, when the total number of employees was 2,894 workers. In order for such a company could be registered with the competent authority as a company to perform these functions, the legislator has established the fulfillment of certain conditions: 1) that it has employed for an indefinite period of at least 5 people with disabilities; 2) that, in relation to the total number of employees, it has employed for at least 50% of persons with disabilities, of which at least 10% of persons with disabilities can be employed only under special conditions; 3) to have adequate space and appropriate technology and other equipment for training and work of persons with disabilities; 4) it has employed experts for training and professional rehabilitation of persons with disabilities, if the company employs more than 20 people with disabilities, and professionals engaged if the company employs fewer than 20 people with disabilities, namely: a) a person to perform practical training and training for jobs that are qualified persons with disabilities; b) a person for jobs provide professional assistance to disabled employees; v) a person - advisor for integration in the workplace; g) that the operating license.

According to the prevailing form of disability of persons who are classified under the category "other" (89 or 53%), followed by persons with mental disabilities thumbs (45 or 27%), persons with impaired hearing (19 or 11%), work (8 or 5%), visually impaired (5 or 3%) and persons with multiple disabilities (3 or 1%).

The latest amendments to the Law on Vocational Rehabilitation and Employment of Persons with Disabilities companies for professional rehabilitation and employment of disabled persons are entitled to a monthly subsidy of earnings for each employed person with disability in the amount of 75% of the total cost of salaries and associated social security contributions but not more than 50% of the average salary in the Republic of Serbia.

**Work center** can perform activities provided that the occupational therapy activities engage at least five persons with disabilities, and at least 80% of persons with disabilities in relation to the total number of persons employed and employees. This type of work engagement is a long form of vocational rehabilitation, in accordance with the mental and physical abilities and desires of people with disabilities and the possibilities of working center. Work centers are different from social enterprises, especially based on a work centers may hire one person with disabilities, whose performance can not be greater than one third of the performance of the employee's normal workplace.

For social enterprises it is assumed that the performance of such work, which results in the market can be realized through the income that social enterprise is obliged to invest in the improvement of working conditions, job skills, social integration and other obligations as provided by law. According to one study, the nature of organizing work centers can be okarakteristai as sheltered workshops, where users perform tasks in segregated, isolated or strictly controlled conditions. It should be noted that the involvement of people in work centers as "a long-lasting form of vocational rehabilitation", as he called the legislator, can not be considered work. Rehabilitation, according to the World Health Organization, is a process which aims to provide people with disabilities the tools that they need to achieve independence and self-determination.

In this respect, the rehabilitation of Britain in itself but in the context of the work has to serve time to enable a person to build skills for inclusion in the labor market, under the open or special conditions. Using the term durability, indicates that the purpose of this rehabilitation loses, which calls into question the very purpose of the work centers. Further, for now there is no way for the employment of people with disabilities who are deprived of legal capacity, or it relates extended parental right. Legal capacity represents the ability of a person to independently take actions that have legal force, or the possibility of action in all spheres of life. But as is usually the person with intellectual or mental disabilities usually totally deprive legal capacity and thus equated with persons under 14 years



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of age. Labour Act prevents them from performing any work, the only option that remains is to engage the employer of these persons within the associations which have registered economic activity.

Work Center provides engagement as working - therapeutic activity of people with intellectual disabilities can not be employed or maintain employment neither under general nor under special conditions. Participation in the activities of the work center, it is often one of the steps to work in an open work environment. The work center is implemented professional rehabilitation - users develop specific skills they need to work in an open work environment. Work Center may I state, establish organizations of persons with disabilities and the organization of their legal representatives.

According to the Law on professional rehabilitation and employment of persons with disabilities, **social enterprise** is a company that was established to carry out activities that is focused on meeting the needs of persons with disabilities and that, regardless of the total number of employees, employs at least one person with disabilities. Social enterprise and organizations are obliged to part of the income generated through operations invest in improving working conditions, job skills, social integration, living standards and meeting the needs of persons with disabilities (member 45).

In the literature and practice, the term *social entrepreneurship* is not entirely new, appeared in the late eighties in Italy, but also in many European countries. Its purpose was to indicate a wide diversity of production and business organizations, to be established in the years of the growing crisis of the theory and practice of *welfare state* was not based on profit but on social motivation. The emergence of the idea and practice of social enterprises associated with the development of capitalism in the 18th and 19th century when they established self-help groups and other associations guided by the principles of philanthropy. This initiatives were most evident in France and Italy, where the process of industrialization was slower and where they rooted workers' production cooperatives. However, when we talk about the modern period, the first social enterprises were established by law in Italy in 1991 in a cooperative (cooperative) legal form and were called *social cooperatives* from then until 2003 in Italy was established between 6,500 and 7,000 social cooperatives, employing over 200,000 workers.

Social enterprises (SE) may be different in organization and structure, but we have a very clear social and public purpose, realized profits are reinvested and non-profit, and are used in entrepreneurship in order to achieve their social objectives. The terms *social entrepreneurship*, *social enterprise* and *social cooperatives* are key terms in the theory of *social economy*.

Social enterprise is defined as *a company that is primarily oriented to solving specific social problems and who own the profit to invest in the further development of its activities or in the community*.

To put it simply, a social enterprise is: 1) profitable; 2) has a socially useful objectives; and 3) the realized profit used for solving social or issues related to the environment. There is no generally accepted understanding of social enterprise, but one of the best definition is provided by EDCs (European Research Network): *Social enterprises are private organizations that do not operate for profit ("not for profit") and provide the goods or services are directly related to their explicit aim to work for the benefit of the community. They rely on a collective dynamics involving various types of stakeholders who are in their governing bodies, and that a high value on their autonomy and they bear economic risks associated with their activity*.

Social enterprises may be different in organization and structure, but we have a very clear social and public purpose, realized profits are reinvested and non-profit, and are used in entrepreneurship in order to achieve their social objectives. They are often social enterprises focused on work integration and inclusion of some of the vulnerable social groups, where these companies combine a business approach to the performance of the functions of wider social importance. This contemporary social enterprises represent a response to the social problems that the country has not responded. Scope of social enterprises can be the provision of social services that have not been adequately regulated by the public authorities or offer certain products on the market, with the intention of the cumulative profits inability to concentrate social objectives. The main characteristic of social enterprises is the maximization of social and public impact, rather than profit maximization.

For an organization to be considered a social enterprise it is necessary to possess nine characteristics: 1. There is constant activity is production and sale of goods or provision of services; 2. The company is autonomous in relation to the state and the private sector; 3. The company consciously take the economic risk to achieve their own income; 4. The company employs determined, at least the minimum number of paid workers and volunteers, although most often participate in work activities of social enterprises; 5. There is a clear undertaking business activities in order to achieve social impact and benefits for the company or a particular marginalized group; 6. The company has created and operates as a result of organized and solidary action; 7. The management of the company

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is based on the principle of "one member - one vote"; 8 users participate in social enterprise management structure; 9. There are clear rules and practices limited distribution of profits.

Following areas of operation, the European continental social enterprises can be divided into two groups, although this division should be taken with a grain of salt because of the existence of various interweaving of services and activities performed by SE.

1. Social enterprises providing social services to vulnerable groups of the population or services of public interest (eg, child care, training and care of persons with disabilities, day care centers, home help, etc.). In Italy, these companies have a form of social cooperatives type A.
2. Social enterprises engaged in work integration of members of the hard-to-employ and marginalized social groups (the so-called WISEs - work integration social enterprises). Social enterprises of this type of offering products and services to market, a profit point to the further training of their members and improve their position in society.

The following six criteria listed according to the document EMES "Social Enterprise: A new model for poverty reduction and employment generation" (2008), provide a picture of the ideal type of social enterprise. Although most social enterprises do not possess all of these characteristics, the use of these criteria may be helpful in identifying new social enterprises and classification of older organizations were reformed.

**Social criteria**

1. Social well-being as an explicit objective: The main goal of social enterprises is to serve the community or a specific group of people whose common needs identified as needs that are in the public interest and not only used for some individuals.

2. Shutting organization aimed at maximizing profits when it comes to social benefit criteria listed above, social enterprises are obliged to part of its profits are used for the realization of a social mission. Organizations in which the first place maximize the redistribution of profits (whether shareholders were employees) are classic, but not social enterprises.

3. The impact of individuals in the organization is proportional to the number of shares owned: Decisions are made collectively, and shall take account of the interests of both customers and stakeholders. Organization is managed in a democratic spirit, and not on the principle of joint stock companies.

**Economic criteria**

4. Economic activity producing goods and / or services: The main goal of social enterprise is not advocating no redistribution of financial resources. Social enterprise should be constantly engaged in the production of goods and / or services.
5. The existence of autonomy: social enterprises are usually created and managed as an autonomous project. They are usually not under the rod, either directly, or indirectly, by public authorities or private companies. Their owners have the right to take their own position and terminate their activity.
6. The trend towards paid work: The social enterprises should be no organizational commitment to job creation. The activity does not have to include the work of employees who receive their salary. However, organizations that rely on volunteer work are considered social enterprises in the early stage of development.

In legal practice, mainly as a criterion determines the minimum number of people from marginalized groups in the total number of employees that the organization had the status of a social enterprise in its operation enjoyed the convenience of fiscal incentives. In Italy, the threshold is 30% as in most other European countries. However, in most social enterprises of this type that threshold is higher than that prescribed by law.

Social enterprises that operate in non-traditional areas of the social economy (eg. Local development, cultural services, environmental protection, recycling and environmental management). Trend establishment of social enterprises for work integration working in the field of environmental protection (ECO-WISE13) started in the nineties. In Italy, however, in 2005 adopted the Law on Social Enterprises, which has made a shift from the earlier areas of activity of social cooperatives, and allows the SP to provide education and research services, to carry out environmental activities, etc. Also, in the UK has adopted the Law on Enterprises to represent the interests of the community. This type of enterprise at the community level, providing a wide range of services - from entertainment and recreational services to support social housing.

Currently, social enterprises across the European Union make up almost 10% of all enterprises (about 2 million social enterprises) and employ 6% of all employees in the EU. In addition to the social functions that it does,

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this makes the social economy a significant part of the economic development of Europe, despite the fact that the forms and activities of social enterprises differ from country to country.

Despite the fact that the importance of the concept of social entrepreneurship and its positive effects recognized in the civil sector and professionals, the legal framework regulating the field of social entrepreneurship in Serbia does not interpret the concept of social entrepreneurship in an adequate manner. However, several laws and strategies contain provisions that could be the basis and support the development of social entrepreneurship, which are: the Companies Law, the Law on Cooperatives, Law on Associations, the Law on Vocational Rehabilitation and Employment of Persons with Disabilities, the Law on Social Protection, Law on Volunteering, the Law on Personal income Tax Law, the Law on contributions for compulsory social insurance, etc. On the basis of these laws, we can point out several organizational forms within which they can operate social enterprises.

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