



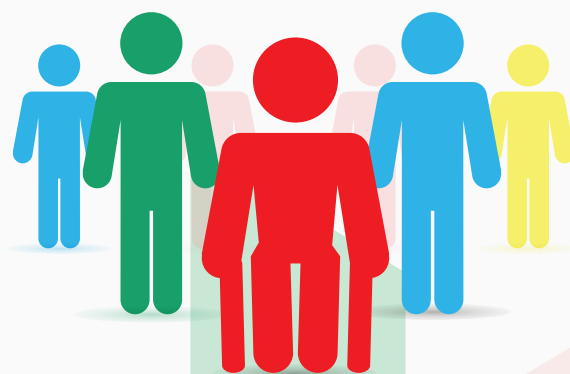
UMHCG

Association of Youth with Disabilities of Montenegro
Udruženje mladih sa hendikepom Crne Gore

ACCESSIBILITY OF THE ENVIRONMENT

THE HUMAN RIGHT OF PERSONS WITH DISABILITIES

- POLICY STUDY-



An EU funded project

ACCESSIBILITY OF PHYSICAL ENVIRONMENT-

HUMAN RIGHT OF PEOPLE WITH DISABILITIES

STUDY OF PRACTICAL POLICY

Podgorica, October 2015.

Publisher:
Association of Youth with Disabilities of Montenegro

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Design and production:

Print:

Copies:

Study is a part of the project “Changing Capacities to Capacitate Changes” which is implemented by Association of Youth with Disabilities of Montenegro in the partnership with the Netherland’s organisation transFORMA, Union of blind of Montenegro and Association of Youth with Disabilities of Nikšić, and is financed by Delegation of the European Union in Montenegro.



Only AYDM is responsible for contents of this Study and it doesn't represent the official attitude of European Union.

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I FOREWORD

1.1. ABOUT THE PROJECT

Project "Changing Capacities to Capacitate Changes" which is implemented by the Association of youth with disabilities of Montenegro from July 2014 until January 2016 is supported by the Delegation of European Union in Montenegro through the IPA – Montenegro 2013 Civil Society Facility Programme.

Project is implemented in the partnership with the organisation transFORMA from the Netherlands, Association of Blind of Montenegro, Association of Youth with Disabilities of Nikšić and in cooperation of Ministry of Labour and Social Welfare.

1.2. GOAL OF THE STUDY

The goal of the **Study of practical policy** (hereinafter Study) is to highlight the positive decisions and results in practice, improvement in this area, as well to problems and constraints in creating accessible environment for all, therefore for people with disabilities through the analyse of the domestic and relevant international legal and strategical frameworks and analyse of the implementation of the Law on Spatial Development and Construction of Structures¹ i Zakona o zabrani diskriminacije lica sa invaliditetom and Law on the Prohibition of Discrimination against Persons with Disabilities², and to offer specific recommendations to the decision makers and other interested parties for improvement of the current state in Montenegro.

By initiating specific conclusions and recommendations, just after adopting new Law on the Prohibition of Discrimination against Persons with Disabilities and during amending the Law on Spatial Development and Construction of Structures, we want to contribute to the realisation of the goals of this project related to more active participation of people with disabilities in initiating, creating, implementation and monitoring of the implementation of the public policies in Montenegro on all levels, and do contribute to the European integrations of our country through public advocacy and changes of national and local policies and strengthening the cooperation between state authorities and NGO which deals with people with disabilities by the Study.

Study was created as a result of long-lasting monitoring of the respecting and implementation of the policies in area of physical environment accessibility for people with disabilities and monitoring of respecting their human rights by the AYDM.

¹ Official gazette of MNE, No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014;

² Official gazette of MNE, No. 35/15 of 07.07.2015;

II INTRODUCTION

2.1. GENERALLY ABOUT ACCESSIBILITY

Universal Human rights are defined by the **UN Universal Declaration of Human Rights**³, as well by many other international documents and documents of specific countries. Ona pripadaju svima They belong to everybody, are based on the universal human needs and represent the instrument of dignity of every human being. Through the different degrees of exercising human rights there are two extremes: one (the unfavourable one) is **social exclusion**, and another extreme (the desirable one) is **inclusive society**. Social exclusion is a social organisation in which individuals or specific population categories have no equal possibilities of exercising human rights which other members of the society exercise. This state, of course, is extremely unfavourable for a individual itself as well as unacceptable for every society which strives for progress. On the other side, desirable state is inclusive society, in which all its members are included, and which attempts to provide exercising of the human rights to everybody, regardless of their differences and to provide a possibility of development and dignity in that way.

The global population of every society is formed by the general diversity. People differ from one another by the age, gender, nation, culture and religion, social background and status, by personal characteristics (physical, intellectual), because of which some of them face different barriers in exercising basic human rights, as for example:

- **a lack of information about the rights** they have and about the mechanisms of their exercising;
- **barriers in physical environment** which hinder or complicate movement and orientation in space;
- **understanding barriers** which anticipate different languages or ways of communication or/ and understanding between people;
- **social barriers** –social distance and prejudices towards specific categories of people, which launch the discriminatory behaviour;
- **administrative barriers** – »insensitivity« of the institutions which have jurisdiction over exercising human rights, barriers in processes etc.

In order to provide every individual independent living and participation in all aspects of life, on a basis of equality, it's needed to provide everything that is implied by accessibility. Some of those

³ UN Universal Declaration of Human Rights, downloaded from: http://www.ombudsman.co.me/docs/izvjestaji/deklaracija_o_ljudskim_pravima.pdf;

barriers in some situations, not always, could be removed by the person itself (e.g. lack of information), some could be removed by the change of behaviour of the people in the environment (social distance, prejudices, discrimination, administrative barriers), but physical barriers in environment are possible to be removed only by planned, carefully thought action by everybody who build that environment. In order to achieve that is needed to set out standards which built environment has to fulfill to satisfy the needs of those people who face with physical barriers in environment. It's clear that those barriers don't disrupt in the same extent all people, i.e. that in the greatest extent are limited persons which have mobility impairments and reduced perception.

Accessibility is a basic term which is used to describe the level of availability of the specific product to a bigger number of users. It can be considered as a possibility to approach to a specific function, i.e. system or entity.

In the most definitions, both in theory and in regulations, **accessibility is related to and identifies with the availability, and there is no difference between these terms.** Products and services designed by the principles of personal rights are called available, but not necessarily accessible.

Accessibility shouldn't be identified with the availability, by which we describe the scope in which the specific product (building, service, environment) could be available to specific users. For example, primary education could be available to all children in one country, but that availability loses its sense for a children with disability who is wheelchair user, if the school is inaccessible for wheelchair users etc.

Existence of different types of barriers in the environment discriminates a very big number of public space users, as people with disabilities, children, elderly, parents with children, pregnant women and others, by denying their access to basic public services like: schools, post offices, banks, health centers, hospitals, including also the public transport. That state is a consequence of the society attitude, at first, towards people with disabilities, but also others for whom accessibility is needed for everyday functioning. Long-lasting application of the medical model of attitude towards disability led to isolation of people with disabilities from the general population. Because of that in society is not built the awareness on the need of accessible environment, because people with disabilities still aren't enough visible in the public. Current situation is that built environment is mostly inaccessible to people with reduced mobility by the different basis and characteristics (disability, pregnancy, age etc).

At the end of 20th century, a topic of disability is started to be viewed through the social model and from the perspective of human rights, with the focus on equal opportunities and social inclusion. Since 2007, in Montenegro is intensified adoption of strategic and legal documents which, i.a. guarantee a right to accessibility, including accessible physical environment to people with disabilities. Among most important documents are, at first, UN Convention on the Rights of Persons with Disabilities (ratified in 2009), Law on Spatial Development and Construction of Structures (2008), Regulation on detailed conditions and manner of adjustment facilities for access and movement of persons with reduced mobility, Zakon o zabrani diskriminacije The Law on Prohibition of Discrimination (for first time adopted in 2010), Law on Prohibition of Discrimination against Persons with Disabilities (for first time adopted in 2011).

III ACCESSIBILITY OF PHYSICAL ENVIRONMENT – basic terms

3.1. PHYSICAL ENVIRONMENT

Physical environment can be defined by two terms: **natural and built**.

Natural environment is environment which development depends only on influence of natural elements (nature and natural disasters). In the moment when the natural environment, for example, woods, is changed for use of the people, it becomes the part of built environment. Built environment is environment which is built or changed by people so they can live and satisfy all their needs in it.

Examples of built environment are buildings, squares, vehicles (transport), parking lots, streets, playgrounds, monuments etc. Nature parks (in which the life of the plants is protected, marked paths and provided other services), and beaches – with the equipment (ramps, paths on the sand, etc.) which ease access to them and other services they provide and which provides a special aids in sea bathing (floating platforms for children, floating chairs for people with reduced movement or buoys that mark safe areas).

Built environment is any space designed and built by people, whether it's public or private, so its accessibility depends on people.⁴

3.2. ACCESSIBILITY OF BUILT ENVIRONMENT

Built environment should consider diversity of citizens and need of all us to be independent. Because of that built environment in all its elements should be designed in that way to provide everyone access to different contents (culture, communication, services, economy etc.). So, accessible environment has to:

- respect the diversity of beneficiaries (nobody should feel marginalized and everybody should be able to access to it);
- be safe for all beneficiaries (without slippery floors, expelled parts, of adequate dimensions etc.)

⁴ European Concept for Accessibility (pages 18-19), downloaded from: http://www.czuns.org/dokumenty/publikacije/01a_Evropski_koncept_pristupacnosti_EKP_srp.pdf;

- should encourage and guarantee healthy use (it shouldn't be dangerous for health, nor to cause problems for people who suffer from different diseases, for example allergies);
- be functional (projected in the way it serves the intended purpose without problems and difficulties, for example, it would be absurd to project a health center in which the corridors' width couldn't facilitate smooth passing of two stretchers);
- facilitate easy navigation and understandability, so all beneficiaries can orientate without difficulties, and in order to achieve that shall be considered the following: clear information (using the marks universal for several countries, avoiding words and abbreviations characteristic for the local context which could confuse), arrangement in the space should be coherent and functional to avoid disorientation of the beneficiaries;
- be »nice to see« (chosen solution should be aesthetically pleasing, so it will be easier accepted by the beneficiaries).⁵

When the construction project is done and built environment according to it, almost always is needed a lot of time to correct and improve that built environment. If the solutions are designed without considering accessibility, then buildings and space could stay inaccessible for a long period of time, and their later correction is always more expensive than if it was designed through project and followed during construction.

Through the accessibility is provided exercising of the basic human rights in democratic environment in which the barriers will be removed, starting from the material to the essential. Accessibility must be guaranteed in all areas of life, such as: health care, education, economy, culture, sport etc.

In the past, physical environment, public transport, systems of information and communication weren't, as a rule, accessible for people with disabilities. In the modern society the need of accessible for all new buildings, infrastructure, systems, services and technologies is stronger, as well a need to adjust current systems and make them accessible. In the Article 4 of UN Convention on the Rights of Persons with Disabilities (General obligations) the sense is in guaranteeing total equality for all and equalization of opportunities for people with disabilities. Related to that, it's important to provide accessibility of physical environment, public transport, public services, information and communication, which is a prerequisite of independent life and total inclusion of people with disabilities in all areas of social life.

3.3. DESIGN FOR ALL OR UNIVERSAL DESIGN

Design for all or universal design, as it's called in literature, has a goal to provide equal opportunities to take part in every aspect of functioning of the society to all people. In order to achieve that, the built environment – buildings, services, culture and information – in brief – everything that is designed and built by people to be useful for the people – have to be accessible, suitable for the use of every society member, to can be adjustable for the diversity of people, and at first to provide a freedom of unhindered movement to all people in any space (living space, on the street, in public transport, in public buildings).

In the Article 2, Paragraph 5 of the UN Convention on the Rights of Persons with disabilities is given a definition of universal design, which is "the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. Universal design shall not exclude assistive devices for particular groups of

⁵ European Concept for Accessibility (ECA pg 20) downloaded from: http://www.czuns.org/dokumenti/publikacije/01a_Evropski_koncept_pristupacnosti_EKP_srp.pdf;

persons with disabilities where this is needed.”. In order to provide implementation of the universal design principles, and therefore antidiscrimination principle, Convention in General obligations requires from the signatories to provide and promote total exercising of the all human rights and basic freedoms for all people with disabilities without any disability-based discrimination, and in that order to promote research and development of the goods, services, equipment and buildings designed according to the principles of universal design, defined in the Article 2 of that Convention, which require a lowest possible level of the adaptation in order to satisfy individual needs of people with disabilities with a lowest price and to promote implementation of the universal design in creating standards and guidelines.⁶

In the last few decades, in developed countries of the world and in the Europe was developed a movement “Design for all” which is oriented to definition and achieving of the standards in spatial development which will provide a accessibility to all people. This movement is based on the social model of attitude towards disability, which recognizes that the person who is unable to use a specific function, or uses it with difficulties, uses another functions to manage in everyday life situations. The problem arises when the environment doesn’t offer possibilities to use those alternative functions, for example:

- For a person who can not see and uses a non-visual tools to get a information, the reading is impossible when the books are only in printed or electronic forms which are inaccessible to “screen readers”⁷;
- For a person who can not hear and uses a tactile and visual tools, a problem is when services, products, communication and information are just in sound form;
- For a person who uses a wheelchair is a barrier when in the entrance of the building are stairs or the doors and passages are narrow, etc.

Universal design respects the rights of all people, includes new possibilities (inclusion, education, employment etc.), safety and protection measures, is based on the savings, sustainability, favourable solutions and therefore improves relations between people. Thereby, “the universal design” is as a principle and directive defined also in the Convention to introduce the accessibility as a universal principle in the planning process.

⁶ Article 4, Paragraph 1, Point f of the Law on ratification of the UN Convention on the Rights of Persons with Disabilities, downloaded from: <http://www.mrs.gov.me/ResourceManager/FileDownload.aspx?rid=161710&rType=2&file=ZAKON%20O%20RATI-FIKACIJI%20KON.UN.O%20PRAVIMA%20LICA%20SA%20INV.%20SA%20OPCIONIM%20PROTOKOLOM.pdf>;

⁷ More detailed: www.disabilityinfo.me/component/k2/item/243-screen-reader-jaws-čitač-ekrana;

IV LEGAL AND NORMATIVE FRAMEWORK

4.1. ACCESSIBILITY OF PHYSICAL ENVIRONMENT IN INTERNATIONAL DOCUMENTS

4.1.1. Legal and normative framework of the UN and Council of Europe

It's impossible to talk about equal opportunities without considering antidiscrimination principle. In order to implement this principle in practice, at first is needed of it to be incorporated in the legal documents, i.e. a existence of antidiscrimination legislation. This principle was defined in the **UN Universal Declaration of Human Rights** in 1948, where in the Article 2 Paragraph 1 prescribes that: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."⁸

This guarantee of antidiscrimination in recognizing and exercising human rights is related to the right of movement (Article 13). Later it's stated in Article 7 of this Declaration that: "All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.". Proclamation of antidiscrimination principle and guarantee of the protection of it was a reason and guideline in defining this principle in all next adopted international documents within the UN.

UN practice related to legal guarantee of antidiscrimination principle in implementation of the international legal documents adopted by this international organisation, initiated the same practice in regional international organisations. So the antidiscrimination principle is also defined in the Article 14 of the **European Convention for the Protection of the Human Rights and Fundamental Freedoms** and in the Article 1 of the **Protocol No. 12 to the Convention**. By those rules was defined that: " Exercising the rights defined by the Convention provides without discrimination of any kind, based on sex, race, colour, language, religion, political or other opinion, national or social origin, connection to the national minority, property, birth or other status."⁹. It's also defined that "every right prescribed in the Law will be exercised without discrimination of any kind, based on sex, race, colour, language, religion, political and other opinion, national or social origin, connection with the national minority, property, birth or other status."¹⁰. As it's visible, European Convention and Protocol No. 12 to it don't recognize a disability as a basis on which discrimination is prohibited, so the

⁸ UN Universal Declaration of Human Rights, downloaded from: <http://www.ombudsman.co.me/docs/izvjestaji/deklaracijaoljudskimpravima.pdf>;

⁹ The Law on the Ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("Official gazette od Serbia and Montenegro – International Contracts, No. 9/2003 and 5/2005), downloaded from: <http://www.pravda.gov.me/ResourceManager/FileDownload.aspx?rid=49387&rType=2&file=1246442064.doc>;

¹⁰ The Law on the Ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("Official gazette od Serbia and Montenegro – International Contracts, No. 9/2003 and 5/2005), downloaded from: <http://www.pravda.gov.me/ResourceManager/FileDownload.aspx?rid=49387&rType=2&file=1246442064.doc>;

Council of Europe adopted a **Action plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006**¹¹, as well as **Resolution ResAP "Achieving full participation through Universal Design"**¹², in which are detailed prescribed the measures which member states have to undertake to create accessible physical environment for all, in which discrimination based on the disability will not exist.

4.1.2. Legal and normative framework of the European Union

Regulations of the European Convention for the Protection of Human Rights and Fundamental Freedoms was a cause to adopt a **EU Charter of Fundamental Rights in 2000**. In the Chapter III – Equality, in Article 21, Paragraph 1 of the Charter is more detailed defined a prohibition of discrimination: "Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.". As it's visible, unlike the European Convention for Protection of Human Rights and Fundamental Freedoms, in the EU Charter of Fundamental Rights a **disability is one of the grounds on which the discrimination is based**. Besides, by development of antidiscrimination guarantees on international level, arised a need to expand antidiscrimination protection. In that meaning, international documents didn't just prescribe the principle of antidiscrimination and guaranteed a protection for the individual in the case the same is violated, by also ordered the contractors to provide and implement measures which have a goal of establishment conditions and environment in which the principle of antidiscrimination wouldn't be violated. So, European Union in the Charter of Fundamental Rights devotes a special article to the measures that have to be undertaken in order to respect rights of people with disabilities (Article 26) and states in it: "The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community."¹³. In the center of the measures which EU provides to the people with disabilities is providing of their independence and inclusion into the life of society.

Purpose and way of making decisions on these measures are defined into the **Treaty on the Functioning of the European Union** in the Articles 10 and 19 in which already in process of planning and adopting policies is included a fight against discrimination, as well as defining regular and special legislative procedures for defining measures in order to reduce discrimination based in the Charter and these Treaty, as well on the level of the Union, in the member states.¹⁴

Measures which contribute to the independence and whole achievement of the human rights of people with disabilities were defined by the EU in the **European Disability Strategy 2010-2020**. This Strategy recognizes eight priority areas, among which is accessibility. In this document is stated that: "Accessibility is a prerequisite of participation in society and economy, but in front of the

11 Action plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015, downloaded from: [www.coe.int/.../Rec\(2006\)5%20%20Bosnian.doc](http://www.coe.int/.../Rec(2006)5%20%20Bosnian.doc)

12 Resolution ResAP (2007)3 "Achieving full participation through Universal Design", downloaded from: [www.czuns.org/dokumenti/.../03_Rezolucija_ResAP\(2007\)3_srp.doc](http://www.czuns.org/dokumenti/.../03_Rezolucija_ResAP(2007)3_srp.doc)

13 Charter of fundamental rights of European Union, original text available on: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:EN:PDF>, translation downloaded from: http://arsbih.gov.ba/wp-content/uploads/2014/01/POV-ELJA_O_OSNOVNIM_PRAVIMA_EVROPSKE_UNIJE.pdf;

14 Treaty on the functioning of the European Union, original text available on : <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF?uri=CELEX:12012E/TXT&from=EN>, translation downloaded from: <http://www.mvpei.gov.me/ResourceManager/FileDownload.aspx?rid=139474&rType=2&file=Pre%C4%8Di%C5%A1%C4%87eni%20tekst%20Ugovora%20o%20funkcionisanju%20Evropske%20unije.pdf>;

EU is a long way to achieve this goal.". So it's recommended that "Commission suggests a use of legal and other instruments like standardization, optimization of the accessibility of built environment", as well as that "the implementing of the accessibility and "design for all" in education programmes and training for relevant professions will be encouraged". In addition, "by its activity, EU will support and amend national activities for implementation of the accessibility and removing existing barriers".

4.1.3. UN Convention on the Rights of Persons with Disabilities

UN Convention is the most important international, legally binding document in the area of human rights of people with disabilities. Based on the principle of antidiscrimination and importance of undertaking measures for achieving independence and inclusion of the people with disabilities in the life of the society, **European Union adopted the Convention in 2011**. This fact gains in importance and shows the importance of respecting human rights of people with disabilities, taking into account that EU didn't adopted a European Convention on Protection of Human Rights and Fundamental.

As expected, one of the basic principles of this legally binding document is a **principle of non-discrimination** (Article 3, Paragraph 1, Point b). In the Article 2, Paragraph 3, is stated: "'Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."¹⁵. In the term of discrimination on the basis of disability defined in this way is clearly visible that accent of the non-discrimination principle is not only on denial or restriction of human rights and freedoms because of the personal characteristic (disability), but on making distinction, exclusion and restriction, which have a purpose or effect of those denial and restriction. So, the discrimination on the basis of disability actually is a non-implementation of measures which provide a whole enjoyment of human rights and fundamental freedoms by the people with disabilities. Therefore, "Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention." (Article 5, Paragraph 4).

In which extent accessibility is important for the implementation of this principle and exercising human rights of people with disabilities is visible in the fact that **one of the principles of the UN Convention on the Rigths of Persons with Disabilites is accessibility** (Article 3 Paragraph 1 Point f). This means that while interpretation of the regulations of the Convention, planning, preparation and implementation of other normative acts and practices appropriate attention has to be devoted to accessibility of them for the all people with disabilities. If it-s estimated that a specific regulation or practice can cause discrimination on the basis of disability, it shouldn't be adopted, i.e. introduced and implemented.

Besides the accessibility is prescribed as one of the principles in the Article 3, Paragraph 1 Point f of the UN Convention, in the Artile 9, **measures that states parties have to undertake to ensure accessibility are raised to the level of the human right of people with disabilities**. This human right includes the obligation of the state to identify and remove obstacles and barriers in built environment both in urban and in rural areas, meaning: "buildings, roads, transportation and other

¹⁵ Law on the Ratification of the UN Convention on the Rights of Persons with Disabilities, downloaded from: <http://www.mrs.gov.me/ResourceManager/FileDownload.aspx?rid=161710&rType=2&file=ZAKON%20O%20RATIFIKACIJI%20KON.UN.O%20PRAVIMA%20LICA%20SA%20INV.%20SA%20OPCIONIM%20PROTOKOLOM.pdf>

indoor and outdoor facilities, including schools, housing, medical facilities and workplaces".¹⁶ Besides, in the Paragraph 2 of this Article are stated specific measures that have to be undertaken in order to ensure the principle of accessibility of built environment as a prerequisite for independent life and full participation of people with disabilities in all aspects of life. Those special measures include: "implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public", "training for stakeholders on accessibility issues facing persons with disabilities", as well as activities in order to "ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities" and "Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms".¹⁷

As it's shown, accessibility according to the principles of universal design has to be legally binding for all facilities open to the public, with no matter who is their owner or user, public, or private person. All facilities and services open to the public have to respect principles of universal design, in order to make them accessible for disabled members of the public. Besides, in the Article 9, Paragraph 2 Point e, Convention guarantees a human right of people with disabilities of "other forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public", when use of the universal design principle doesn't ensure a full implementation of the principle of physical environment accessibility.

However, "in the case of individuals who have rare impairments that were not taken into account when the accessibility standards were developed or who do not use the modes, methods or means offered to achieve accessibility (not reading Braille, for example), even the application of accessibility standards may not be sufficient to ensure them access."¹⁸ Because of violation non-discrimination and accessibility in such cases, **UN Convention introduces the institute of reasonable adaptations**, which are needed and appropriate modifications and adjustments which don't represent a disproportionate or undue burden, and are needed in specific case to ensure people with disabilities to enjoy and exercise all human rights and fundamental freedoms on a equal basis (Article 2 Paragraph 4). "The duty to provide reasonable accommodation is an ex nunc duty, which means that it is enforceable from the moment an individual with an impairment needs it in a given situation, for example, workplace or school, in order to enjoy her or his rights on an equal basis in a particular context. Here, accessibility standards can be an indicator, but may not be taken as prescriptive. Reasonable accommodation can be used as a means of ensuring accessibility for an individual with a disability in a particular situation. **Reasonable accommodation seeks to achieve individual justice** in the sense that non-discrimination or equality is assured, taking the dignity, autonomy and choices of the individual into account. Thus, a person with a rare impairment might ask for accommodation that falls outside the scope of any accessibility standard."¹⁹ Unlike the duty of providing accessibility principles through implementation of the universal design principle as a standard in planning and building physical environment, where high costs can never be a reason for abolition of this duty, reasonable adaptations are implemented only if they don't represent a disproportionate burden for a subject that have to ensure them, in relation to the goal which

¹⁶ Article 9, Paragraph 1, Point a) of the Law on the Ratification of the UN Convention on the Rights of Persons with Disabilities, downloaded from: <http://www.mrs.gov.me/ResourceManager/FileDownload.aspx?rid=161710&rType=2&file=ZAKON%20O%20RATIFIKACIJI%20KON.UN.O%20PRAVIMA%20LICA%20SA%20INV.%20SA%20OPCIONIM%20PROTOKOLOM.pdf>;

¹⁷ Article 9 Paragraph 2 Points a, b, c and d of the Law on the Ratification of the UN Convention on the Rights of Persons with Disabilities, downloaded from: <http://www.mrs.gov.me/ResourceManager/FileDownload.aspx?rid=161710&rType=2&file=ZAKON%20O%20RATIFIKACIJI%20KON.UN.O%20PRAVIMA%20LICA%20SA%20INV.%20SA%20OPCIONIM%20PROTOKOLOM.pdf>;

¹⁸ Paragraph 25, General comment on the Article 9, UN Committee on the Rights of Persons with Disabilities, downloaded from: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en

¹⁹ Paragraph 26, General comment on the Article 9, UN Committee on the Rights of Persons with Disabilities, downloaded from: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en

have to be reached by them (for example, removing existing elevator which is in accordance with accessibility standards in a shop and installation of the bigger elevator in to ensure entrance of the person with disability is a reasonable adaptation if that person with disability and others who need this type of adaptation by their consumption, i.e. shopping in that shop will pay those costs). Non-implementation of the reasonable adaptations of physical environment Convention in the Article 2, Paragraph 3, recognizes as a one of most important types of discrimination on the basis of disability,²⁰ in order to remove which States Parties have a duty to undertake all needed measures and steps (Article 5, Paragraph 3).²¹

In that meaning in the Article 4 – General obligations– is prescribed that State Party will: “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities”, as well as “all appropriate measures to eliminate discrimination on the basis of disability by any person, organisation or private enterprise” (Article 4 Paragraph 1 Points b and e).

If the State Party of the Convention doesn't implement all needed measures in implementation of the physical environment accessibility principle, including implementation of the reasonable adaptations when needed, it makes a direct discrimination on the basis of disability and disables a independent and dignified life for people with disabilities by preventing their participation in all aspects of life.

4.2. ACCESSIBILITY OF PHYSICAL ENVIRONMENT IN LEGAL FRAMEWORK IN MONTENEGRO

4.2.1. Accessibility of physical environment in terms of the principle of non-discrimination

In the **Preamble of the Constitution of Montenegro**²² are, among others, as basic values of the public order are proclaimed: **freedom, respect for human rights and liberties, democracy and the rule of law**. In that meaning, State of Montenegro is responsible for establishment of social justice. This values and responsibilities are elaborated in the Article 8, in which is prohibited “direct or indirect discrimination on any grounds”, and introduced the regulations and special measures to achieve equality of the persons who are in unequal position (institute of affirmative action). In the Article 17 Paragraph 2 every person is guaranteed equality before the law, regardless of any particularity or personal feature. Also, in the Article 24 of the Constitution, limitation of human rights and liberties is prohibited out of the scope permitted by the Constitution, and measures needed to achieve the goal because of which the limitation is introduced. Limitations can only be prescribed by the law, but, among others, the rights to dignity and respect of the person shouldn't be limited, and prohibition of discrimination couldn't be abolished (Article 25, Paragraphs 3 and 4 of the Constitution of Montenegro). In the Article 39 is stated that every person is guaranteed the freedom of movement and residence and that it should be limited only in the case of conducting criminal procedure, prevention of contagious diseases spreading or for the security of Montenegro.

In the Article 68 of the Constitution of Montenegro is “guaranteed a special protection of the per-

²⁰ Discrimination includes all types of discrimination, including restricting reasonable adaptations.

²¹ In order to promote equality and eliminate discrimination, State Parties will undertake all appropriate steps to ensure reasonable adaptation is provided.

²² The Constitution of Montenegro (“Official Gazette of MNE” No. 1/2007 of 25.10.2007);

sons with disabilities”, so those principles and guaranteed human rights and freedoms gain importance when it’s about their enjoying by people with disabilities. Because of that principle of the public order and principle of non-discrimination and equality are detailed defined in the Law on Prohibition of Discrimination²³ and in the Law on Prohibition of Discrimination against Persons with Disabilities²⁴.

In the Article 2 of the **Law on Prohibition of Discrimination** any form of discrimination on any ground, including disability, is prohibited (Article 2, Paragraph 1). Also, besides distinction and unequal treatment for the one or more persons in comparison with other persons because of personal characteristics, in the term of discrimination, the Law includes a **failure to treat, exclusion and restriction** which can cause inequality. Because of that in the Article 5 of this Law are recognized state authorities, authorities of the state administration, authorities of the units of local self-government, public enterprises and other legal persons performing public powers, as well as other legal and natural persons which can (but don’t have to) adopt, introduce and implement regulations and special measures, i.e. affirmative action prescribed by the Constitution. The norm defined in this way is a recommendation, but not the obligation of those subjects to take measures for achieving full equality. Therefore, although they don’t implement special regulations and procedures in order to achieve equality, they can be obliged for the same by the procedure for protection from discrimination.

It’s very important that in this Law are defined a terms of direct and indirect discrimination (Article 2, Paragraphs 3 and 4), by which is highlighted a possibility of protection as well from acts, deeds or non-acting, also from apparently neutral definitions of the regulations, criteria or practices, which cause or can cause the violation of non-discrimination principle.

In the text of 2010 was defined as discrimination encouraging and instructing for discrimination act, which in amendments of the Law in 2014 was expands to help in discriminating act and showing intention to make a discrimination against a person or group of persons (Article 2, Paragraph 5). So, a specific person or a group of persons can require protection from discrimination not just when it suffers discrimination, but also when he/she avoid it by knowing the intention of the discriminator that the discrimination of that person or group of persons will be made. So, for example, a announcement of event in a inaccessible environment can be a cause for starting the procedure for protection from the discrimination on the basis of disability. Also, in the Article 20 as some of the harder forms of discrimination are defined repeated and extended discrimination (Article 20, Points 2 and 3), i.e. discrimination committed several times against the same person or the group of persons and committed during a long period of time against same person or the group of persons. Repeated and extended discrimination in the practice represent failure to take measures and activities to adjust the facilities and public areas and therefore inaccessibility of physical environment for a person or group of persons with disabilities.

Besides mentioned, as one of the special forms of discrimination, the **Law on Prohibition of Discrimination recognizes the discrimination in use of facilities and areas in public use** which is represented by making impossible, restricting or making difficult the use of mentioned facilities to the person or group of persons by some of the basis of this Law. So, the general Law (in the Article 18²⁵) as a specific and therefore the most often form of discrimination recognizes just the inacces-

²³ Law on Prohibition of Discrimination (“Official Gazette of MNE” No. 46/10 of 06.08.2010, 40/11 of 08.08.2011, 18/14 of 11.04.2014);

²⁴ Law on Prohibition of Discrimination against Persons with Disabilities (“Official Gazette of MNE” No. 39/11 of 04.08.2011) and Law on Prohibition of Discrimination against Persons with Disabilities (“Official Gazette of MNE” No. 35/15 of 07.07.2015. and 44/15 of 07.08.2015);

²⁵ Entrance in facilities/buildings and areas in public use which are inaccessible to the persons with reduced mobility and persons with disability, i.e. making impossible, restricting or making difficult the use of mentioned facilities, in a way which is not disproportionate burden for a legal or natural person who is obliged to provide for that, shall be deemed to be discrimination within the me-

sibility of the facilities and areas in public use. This form of discrimination includes also failure to take special measures, which are not disproportionate burden (reasonable adaptations) for a legal or natural person who is obliged to provide the respectation of the non-discrimination principle in the use of the facilities and areas in public use. However, it's not precisely defined that special measures which are not disproportionate burden for a obliged subject refer to individuals with disabilities in a specific situation, so it's given a possibility to interpret which means that obligation of implementation of the accessibility standard can be excluded from the term of discrimination on the basis of disability if it is a disproportionate burden for a obliged subject.

It must be taken into account that reasonable adaptations exceede the term of universal design. They can have a goal to equalize the opportunities for individual and in the best way to show the right of the individual, i.e. enjoying the rights for the individual and it's inclusion into the community.

Compared to the Law on Prohibition of Discrimination, a term of this type of discrimination on the basis of disability in the **Law on Prohibition of Discrimination against Persons with Disabilities** is expanded to inaccessibility of the whole facility or area in public use (not just their entrance), whilst the term of use is detailed defined through: **access, movement, stay and work** in those facilities (Article 8, Paragraph 1). Besides, in the Article 4 Points 2 and 3 are given definitions of the facilities and areas in public use:

"2) structures in public use are the following ones: those having formative, educational and cultural purpose; those used for healthcare, rehabilitation, social and childcare; those for sport-recreation purposes; those used for commercial, catering and tourist purposes; those used for postal and telecommunication purposes; those for transportation purposes; those used for legislative, judicial, administrative and similar purposes; structures for religious rituals and religious activities; structures frequently visited by persons with disabilities; public spaces and areas and similar; 3) public areas are parks, squares, public roads and similar".²⁶ As visible, which facilities and areas will be considered as ones in public use depends on their purpose, independently of the subject who is owner or tenant of them, their financial resources, size of the building etc. Therefore a person with disability has a right to protection from discrimination in use of the facilities and areas in public use in relation to any legal or natural person which by failure to take special measures disables it to have enabled access, movement, stay and work in them.

In the Article 5 Paragraph 1 of the new Law on Prohibition of Discrimination against Persons with Disabilities is stated an obligation of legal and natural persons to adopt and implement regulations and special measures oriented to achieve equality of people with disabilities. Those special measures are related to the implementation of the universal design principle which is defined in the Article 8 Point 8 of the Law, a first defined in a document and compliant with the Convnetion's definition.²⁷

Therefore the expected terms of facilities and areas in public use were expanded, so among facilities in public use are facilities in which are offered bank and other financial services, museums and other culture institutions, as well as all legal bodies which in framework of the public powers offers a services to citizens (Article 8 Point 1), whilst among areas in public use are street, path on the children playground and boardwalk, pedestrian crossing, overpass and footbridge and street crossing (Article 8 Point 2).

aning of Article 2 of this Law. Discrimination against person with disability exists also in the case when special measures to remedy limitations or unequal position this person is facing are not taken.

²⁶ Law on Prohibition of Discrimination against Persons with Disabilities („Official gazette of MNE" No. 39/11 of 04.08.2011);

²⁷ Law on Prohibition of Discrimination against Persons with Disabilities („Official gazette of MNE" No. 35/15 of 07.07.2015.);

Therefore, the term of the discrimination on the basis of disability was expanded in the area of use, i.e. access to the facilities and areas in public use. Instead of the "use of the facilities and areas in public use", the name of the area is "access to the facilities and areas in public use", through which the scope of the prohibition of discrimination on the basis of disability was expanded from the facility and area in public use to the access to the facility. Also is considered as a discrimination in this area failure to comply the requirements defined by the regulations in area of spatial planning and building of structures, **for unobstructed access, movement, stay and work of the people with disabilities** in the facilities and areas in public use (Article 11, Paragraph 1), but non undertaking special measures which are not disproportionate burden in a specific cases when they are needed to respect the principle of non-discrimination (reasonable adaptations). Also, the discrimination on the basis of disability is taking, usage and demolishing of the furniture and accessible toilets for the people with disabilities by the people without disabilities, as well as taking and usage of the accessible parking lot by the person without disability. By this the term of the discrimination on the basis of disability in access to facilities and areas in public use was expanded to the elements of the facilities and areas in public use which have to ease its usage by the people with disabilities.

In the Article 11, Paragraph 2 is prescribed an obligation of providing unobstructed access to the facility in public use on the main entrance, if there are technical possibilities. Through this is wanted to prevent discrimination on the basis of disability related to segregation in access to facilities in public use which is often because of less costs or contestation of the owners or users of the facilities, provided only on the side entrance.

Besides **segregation** as a special type of discrimination in the practice is present discrimination in the way that in most facilities doors on the side entrances are closed.

This act precisely reflects the attitude towards people with disabilities.

4.2.2. Accessibility of the physical environment as a standard in spatial development and construction of structures

4.2.2.1. Legislative on the national level

As aforementioned, since 2008 standards of physical environment accessibility are included into main standards and conditions for spatial development and construction of structures. A current Law on spatial development and construction of structures of 2008 was amended in 2014²⁸ and continued a specifying of those standards and obligations of all subjects which are investors, owners or tenants of facilities and areas in public use to provide them. This Law defines standards of physical environment accessibility as a standards and conditions needed to provide unobstructed access, movement, stay and work of people with disabilities in facilities in public use. So, those standards have to provide a possibility of a full functioning to people with disabilities starting from the access, i.e. entrance to the facilities and then to all its parts which can be accessed and entered, i.e. which are used by other people.

Conditions for unobstructed access, movement, stay and work of the people with reduced movement and people with disabilities in the Article 62 Paragraph 29 of the Law were recognized as **one of urban-technical conditions of spatial development and construction of structures**. Ur-

²⁸ Law on Spatial Development and Construction of Structures („Official Gazette of MNE" No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014.);

ban-technical conditions are integral part of every planning document (Article 29 Paragraph 2) on basis of which the development and construction are conducted. Also, among basic requirements for a construction, i.e. the requirements that the construction, depending on its purpose, has to meet during building and use and by which is provided its safety in total, as well as safety of every its part are included a requirements of safety and accessibility which include access for people with reduced mobility and people with disabilities. These urban-technical conditions and main requirements for the structures are a integral part of the **technical documents** (Article 76 Paragraph 2) and have to be met in order to **preliminary and master design pass a review** (Article 86 Paragraph 2 and Article 90 Paragraph 2) and to get a **building** (Article 93 Paragraph 1 Point 1) and **exploitation** (Article 121 Paragraph 2 Points 1 and 3) **permits**. For a subject which make a technical documents contrary to the urban-technical conditions, as well as for a reviewer which approve the project which is not compliant with the Law, is prescribed a fine: 2.000,00€ to 40.000,00€, if it's a legal person, 2.000,00€ to 12.000,00€ if it's a entrepreneur, and 500,00€ to 4.000,00€ for a responsible person in a offender which has a status of legal person (Article 155, Paragraph 2 Point 2 and Paragraph 2 and 3 and Article 157 Paragraph 1 Point 2 and Paragraph 2 and 3).

Regulations of this Law which are a key for implementation of the standards of physical environment accessibility and respecting human right to access for people with disabilities are contained in the Article 73 in which is stated: "Construction of structures in public use shall be performed in a manner which will provide undisturbed access, movement, stay and work to persons with reduced mobility and persons with disabilities. Construction of residential and residential-business structures shall be performed in a manner to provide undisturbed access and movement in common premises to persons referred to in paragraph 1 of the present Article. Residential and residential-business structures with 10 and more apartments must be constructed in a manner which enables easy adjustment of structures, at least one dwelling unit for every 10 apartments for the undisturbed access, movement stay and work of persons with reduced mobility.". Those norms represent a legal obligation for all subjects which are investors and contractors of the facilities in public use to undertake a acts and special measures in providing unobstructed access, movement, stay and work of people with disabilities in them. It means that during construction of the facility the contractor is obliged to act according with the master design on basis of which is given a building permit (Article 110 Paragraph 1 Point 1), and that in meeting that obligation follow the implementation of the conditions for unobstructed access, movement, stay and work of people with reduced mobility and people with disabilities in building facilities in public use, residential and residential-business structures. If **contractor notice deficiencies and irregularities in the master design**, including incompatibility with the urban-technical conditions related to implementation of conditions for unobstructed access, movement, stay and work of people with reduced mobility and people with disabilities, it's obliged **to inform investor and company which made the project in writing** (Article 111 Paragraph 3), and investor and company are obliged to **eliminate the deficiencies immediately** (Article 111 Paragraph 4). If the investor or the business company which developed the master design fails to eliminate the deficiencies they were warned about immediately, the contractor must inform thereof the authority which issued the building permit, as well as the competent inspection authority (Article 111 Paragraph 4). In order to additionally provide a construction of the structures according to the Law, in the Article 114 is prescribed a obligation of the investor to provide a technical supervision starting from the performance of preliminary works (Paragraphs 1 and 4). This technical supervision, among other, includes: control of execution of works according to the engineering documents; verification of quality of execution of works and implementation of regulations, standards, engineering and quality norms (Article 114 Paragraph 3). Also, a **person who performs a technical supervision** is obliged to without delay, inform the investor about deficiencies in engineering documents, construction of the structure contrary to the engineering documents, regulations, standards and norms of quality (Article 114 Paragraph 5). If the contractor and technical supervisor fails to warn in writing the investor of the deficiencies in the

master design and technical documents or building contrary the Law, they have to pay a fine ranging from EUR 2.000,00€ to 40.000,00€ if they have a status of legal person, 2.000,€ to 12.000,00€ if they are entrepreneurs, as well as responsible person in offender which has a status of legal person, ingeneer who manages the construction of the structure or executes specific works shall pay fine ranging from 500,00€ to 4.000,00€ (Article 158 Paragraph 1 Point 10 and Paragraph 2, 3 and 4 and Article 159 Paragraph 1 Point 2 and Paragraph 2 and 3).

However, those requirements could be implemented only in construction of the structures started after adoption of this Law. In order to prevent the right to accessible physical environment for people with disabilities stay a dead letter, regardless of the good legal solutions, related to already built constructions in public use, th lawmaker prescribed a deadline of five years (August 2013) in Article 165 to the owners, tenants and holders of the structures in public use to adjust all current structures to unobstructed access and use by the people with disabilities. In this way, the accessibility of the structures in public use to people with disabilities was put on the top of priorities of Montenegro. In order to provide faster and easier fulfilment of this obligation, in Article 117 Paragraph 1 Point 3 the Law prescribes that **approach ramps, elevators and similar structures for access and movement of persons with reduced mobility and persons with disabilities are considered auxiliary structures and temporary prefabricated structures**, by which they are excluded from the complicated procedure of gaining building permit. Namely, the placement, building and removal of those access structures is under the jurisdiction of local governments, so for gaining a permit to undertake a special measures for access the structures in public use the Law gives a possibility to local governments to prescribe fast and easy procedures (Article 117 Paragraph 3). However, also, for a subjects that provide a unobstructed access and movement of the people with reduced mobility and people with disabilities, if they don't get a permission of the competent local government authority is prescribed a fine ranging from 2.000 to 4.000€ for a legal person, from 500 to 4.00€ for the responsible person in a legal person and from 2.000 to 12.00€ for a contractor (Article 154 Paragraph 1 Point 12 and Paragraph 2 and 3). Those fines are the same as fines for entities which install, or construct other auxiliary structures and temporary prefabricated structures without a permit, or don't respect the obligations according to the Articles 73 and 165. *The same misdemeanor sanction for entity which don't enable enjoying basic human right of people with disabilities and entity which enables that right, but without respecting proposed procedure is unfair and it is not in favour of implementation of the accessibility standards. Furthermore, threat of possible sanction if the process requests weren't meet, could be very demotivating for undertaking special measures in order to achieve human right of people with disabilities to accessible physical environment.* For entities which don't provide unobstructed access, movement, stay and work of people with reduced mobility and people with disabilities in facilities in public use is proposed a misdemeanor fine ranging from 2.00 to 40.000€ for a legal person, from 500 to 4.000€ for responsible person in the administrative body, local government body or responsible person in the legal entity and from 2.000 to 12.000 € for a entrepreneur (Article 154 Paragraph 1 Point 2 and Paragraph 2 and 3 and Article 161 Paragraph 1 Point 9 and Paragraph 2 and 3).

Accessibility standards, i.e. conditions for unobstructed access, movement, stay and work of people with reduced mobility and people with disabilities were in detail proposed by the **Ordinance on closer conditions and the manner of adjusting facilities for access and movement of persons with reduced mobility**.²⁹ This ordinance at first defines a term of the facility in the public use (Article 6 Paragraph 1), and states that this term includes: "those used for commercial, catering and tourist purposes; those used for postal and telecommunication purposes; those for transportation purposes; facilities in which are offered bank and other financial services, those used for legislative, judicial, administrative and similar purposes; those used for healthcare, rehabilitation, social and

²⁹ Ordinance on closer conditions and the manner of adjusting facilities for access and movement of persons with reduced mobility („Official Gazette of MNE", No. 51/08, 34/11 and 35/13);

childcare; structures frequently visited by persons with disabilities; those for sport-recreation purposes; structures frequently visited by persons with disabilities; those having formative, educational and cultural purpose; those with a fun purpose: adventure park; those for transportation purposes; structures for religious rituals and religious activities; those with criminal sanctions execution purpose; areas in public use and other purpose facilities". As visible, this ordinance, as well as Law on Prohibition of Discrimination against Persons with Disabilities facilities in public use distinguishes by their purpose and public openness. However, unlike the Law on Prohibition of Discrimination against Persons with Disabilities, this Ordinance excludes some facilities from the term facility in public use on basis of their squaring. So self-service with a squaring less than 200 m², disco club with a squaring less than 100 m², night club with a squaring less than 200 m² and showroom with a squaring less than 300 m², camp for less than 500 guests are not considered facilities in public use, therefore they don't have a obligation to meet the accessibility standards defined by this Ordinance.

This Ordinance defines mandatory accessibility elements which are "part of technical documents prepared for purpose of constructing the structure, by which are defined size, properties, installations, devices and other structure equipment in order to provide access, movement, stay and work of people with disabilities and people with reduced mobility under the same conditions as other people".³⁰ Those mandatory accessibility **elements are divided into: accessibility elements for overcoming height difference, elements of independent living accessibility and public transportation accessibility elements** (Article 8 Paragraph 1). Elements for overcoming height difference are: ramp, stairs, elevator, vertical lift platform and sloping-lifting folding platform. Elements of independent living accessibility are: entrance; halls; toilet; bathroom; kitchen; room, classroom, working space; apartment; cafe and restaurant; dressing room; shower; polling booth; entrance into the water on the beach and pool; seat in the audience; phone, textphone, fax, ATM; electrical installations (intercom, light switch, door bell, outlet in the kitchen, other outlets, electrical panel); door and window knobs; counter; inductive loop or transmission circuit; message board, orientative plan of the building etc.. Public transport accessibility elements are: station and platform; parking lot; public pedestrian area; traffic light; pedestrian crossing; pedestrian safety island and crossroad. All those accessibility elements have to have tactile surfaces (Article 8 Paragraph 3), which includes tactile paving, tactile warning strips and tactile warning fields, landmarks for unobstructed access and movement of people with visual impairments.

Accessibility elements that every facility in public use is obliged to have are: entrance (Article 17), halls (Article 18), toilet (Article 19), counter (Article 34) and parking lot (Article 40). The most facilities in public use have to have orientative building plan. In the Article 52 of the Ordinance is stated that facilities in public use have to be adjusted to people with disabilities during reconstruction, i.e. that reconstruction has to include accessibility elements.

Besides facilities in public use, in the Ordinance on closer conditions and the manner of adjusting facilities for access and movement of persons with reduced mobility are proposed also standards of accessibility for residential and residential-office buildings and states that those are "buildings with ten or more flats intended for living or residential and office purposes".³¹ So, just residential and residential-office buildings with ten or more apartments have to meet the accessibility standards defined by this Ordinance. In the Article 23 Paragraph 6 is proposed that on every ten apartments, there have to be built one easily adjustable, i.e. apartment which have independent life accessibility elements.

³⁰ Article 4 Point 8 of the Ordinance on closer conditions and the manner of adjusting facilities for access and movement of persons with reduced mobility („Official Gazette of MNE", No. 51/08, 34/11 and 35/13);

³¹ Ordinance on closer conditions and the manner of adjusting facilities for access and movement of persons with reduced mobility („Official Gazette of MNE", No. 51/08, 34/11 and 35/13");

4.2.2.2. Public procurements procedure

Montenegrin Public Procurement Law³² defines conditions, manner and procedure of public procurements which include **awarding work assignments** (Article 1 of the Law), among others, for **architectural services** (Article 36 of the Law).

State administration bodies, local self-government units, public services and other beneficiaries of the Budget of Montenegro, that is the Budget of the local self government unit and other public funds performing tasks of public interest, as well as business organisations and legal entities performing tasks of public interest, in which state or local self government unit have a part (ownership, membership, deciding, monitoring...) or which subjects are financed from the Budget of Montenegro or local self government budgets are obliged to follow the procedure of public procurements.

The Law recognizes a few types of public procurements (Article 20): open procedure, restricted procedure, negotiated procedure with prior publication of a contract notice, negotiated procedure without prior publication of a contract notice, contest, shopping method and direct agreement.

Contest³³ is a type of public procurements, which can be implemented for services in the field of urban *planning, architecture, construction*, engineering, science, culture, design and data processing.

Contest could be conducted individually or as an integral part of another public procurement procedure for procurement of services, where a contract shall be concluded with the winner of the contest, or with one of the winners of the contest.

The winner or the winners of the contest may be awarded a **prize** in accordance with the terms envisaged by the contest (Article 28, Paragraph 3).

In a public procurement procedure conducted by a contest, a project, **plan or design** shall be selected by an independent jury.

A contracting authority may initiate the public procurement procedure if **funds** for that particular procurement contract **have been allocated** and if such **procurement is envisaged by the annual procurement plan of the contracting authority** (Article 37).

The subject of a contract on public procurement of works shall be **execution of works**³⁴ **on construction, adaptation, reconstruction and maintenance of a facility**, as well as **services**³⁵ **in the area of transport, services in the area of education and science, architectural services, health services, social services** and other services, which value has to be estimated³⁶. Depending of the value of public procurement is implemented a type of procurement:

- I Value scale - in cases when the estimated value of the public procurement is up to EUR 5,000, the contracting authority shall perform the **direct agreement**;
- II Value scale - in cases when the estimated value of the public procurement **exceeds EUR 5,000 up to EUR 25,000 for procurement of goods or services**, or when the estimated contract value

32 Public Procurement Law, ("Official Gazette of MNE No. 28/2015");

33 Article 28 of the Public Procurement Law, ("Official Gazette of MNE No. 28/2015")

34 Article 35 of the Public Procurement Law, ("Official Gazette of MNE No. 28/2015")

35 Article 36 of the Public Procurement Law, ("Official Gazette of MNE No. 28/2015")

36 Article 44 of the Public Procurement Law, ("Official Gazette of MNE No. 28/2015")

exceeds **EUR 5,000 up to EUR 50,000 for procurement of works**, the contracting authority shall perform the shopping method;

- III Value scale - in cases when the estimated value of the public procurement **exceeds EUR 25,000 for procurement of goods or services**, or when the estimated contract value **exceeds EUR 50,000 for procurement of works**, the contracting authority shall perform open procedure, restricted procedure, negotiated procedure with prior publication of a contract notice, negotiated procedure without prior publication of a contract notice, contest.

In the Article 47 of the Law is defined that the estimated value of the procurement shall be defined on basis of an appropriate **technical documentation** that contains the bill of quantities or calculation of the works value.

According to the Paragraph 2 of this Article, when determining the estimated value of public procurement of works, a contracting authority shall include in the works value the **value of all the goods and services necessary for the execution of the works contract**.

Manner and conditions of public procurements are detailed defined by the tender documents which have obligatory part of technical characteristics or specifications (Article 50). In this Article, among other, is defined that when defining technical characteristics or specifications in tender documentation, **contracting authority shall, in accordance with the Law, prescribe mandatory compliance to technical standards of accessibility for disabled persons**.

Public procurement procedure, depending on the type, can last **between 12 and 37 days**, and bid validity period can't be shorter than 60 days from the day of public opening of the bids.

During appeal procedure is implemented a **administrative procedure**, i.e. **appeal to the State Commission for Control of Public Procurement Procedures**, directly through the contracting authority, and which can be lodged by contracting authority or other interested person.

Appeal can be lodged against:

- 1) tender documentation;
- 2) decision on selection of the most favorable bid;
- 3) decision on suspension of the public procurement procedure;
- 4) decision on annulment of the public procurement procedure.

However, among **penalty provisions** of the Law **aren't provided penalties for infringers of the norms in Article 50, Paragraph 3 that is related to technical standards of accessibility**.

4.2.2.3. Legislative on the local level

Although the Law on Spatial Development and Construction of Structures in Article 117 enabled that access ramps, elevators etc. which provide access and movement of people with disabilities can be excluded from long and complicated procedure of building permit issuing, it left a possibility for local self governments to define as easier and faster procedure for issuing permits of the secretaries responsible for area of spatial development, in order to owners and tenants of the facilities in public use give a possibility to provide as easier right to accessibility for people with disabilities. In 2014, the Union of Municipalities of Montenegro adopted a **Model of Decision on installation**,

or construction and the removal of access ramps, elevators and similar facilities for access and movement of persons with reduced mobility and persons with disabilities.³⁷ On basis of this model, since now 21 municipality (except Danilovgrad and Ulcinj) adopted a Decision on installation, or construction and the removal of access ramps, elevators and similar facilities for access and movement of persons with reduced mobility and persons with disabilities.

Although, regulations of the Model, and therefore the Decision, don't ease and speed up the procedure of issuing permit for installation of those objects, moreover, they have just opposite effect. For a subject that wants to install these access structures and provide people with disabilities access to the facility in public use over which it has ownership or use, is proposed a **mandatory public utility fee**, if that structure is installed on the land which is a property of local self government. Besides, among the documentation submitted with the Request on issuing the permit are included **attestation and functionality warranty**. Considering that for some access structures attestation can't be obtained (for example, the ramp, in which there is not a gadget, don't have a producer, because it can't be manufactured, in series), this in practice results that access structure projected according to the accessibility standards can't be issued a permit of the secretary responsible for area of spatial development. This situation is additionally difficult because if **communal police** determines that access structure is installed or built without permit or contrary to it, **can demolish that structure without any informing**, and to additionally **punish** the subject on whose facility in public use the disputable structure was installed or built with the **amount to 10.000, 00€** (depending on legal status).

This demotivates owners and tenants of the facilities in public use to meet the obligations from the Articles 73 and 165 of the Law on Spatial Development and Construction of Structures, because when they want to meet these obligations, they came to the situation of not meeting complicated and long-term procedure and because of that access structure can be demolished and they could be punished.

4.3. COMPARATIVE LEGAL ANALYSIS OF THE COHERENCE OF MONTENEGRIN LEGAL FRAMEWORK WITH INTERNATIONAL LEGAL STANDARDS

Montenegro regulates the **human right of people with disabilities** to accessible physical environment in two directions. First is proposing **accessibility standards** in regulations that regulate spatial development and construction of structures, and second one is **prohibition of discrimination** on basis of disability in area of access to facilities and areas in public use.

Montenegrin legal framework guarantees implementation of non-discrimination principle, especially by regulating prohibition of discrimination on basis of disability in lex specialis Law on Prohibition of Discrimination against Persons with Disabilities. In non-discriminating legislation of Montenegro the accent is put on guaranteeing protection from discrimination, whilst achieving measures in providing environment in which will not exist discrimination on the basis of disability in those Laws is defined as recommendation (Law on Prohibition of Discrimination) or as mandatory obligatory norm (new Law on Prohibition of Discrimination against Persons with Disabilities). As discrimination on the basis of disability in area of access to facilities and areas in public use is recognized non implementing special measures and non-providing conditions for unobstructed access and movement of people with disabilities, according to the regulations in area of spatial development and building of structures. However, **Montenegrin legal system doesn't recognize the institute of reasonable**

³⁷ Model of Decision on installation, or construction and the removal of access ramps, elevators and similar facilities for access and movement of persons with reduced mobility and persons with disabilities, available on: <http://www.uom.co.me/wp-content/uploads/2014/06/Modeli-web.pdf>

adaptations, as it was done in Article 2 Paragraph 2 of the UN Convention on the Rights of Persons with Disabilities, and therefore non-implementation of the reasonable adaptation in specific cases when they are needed in legal system is not defined as discrimination on the basis of disability. This means that Montenegro didn't meet the obligation taken when signing UN Convention on the Rights of Persons with Disabilities to undertake all needed measures and steps in order to abolish this type of discrimination on the basis of disability, i.e. to provide implementation of the reasonable adaptations when needed and feasible, although in the Strategy for the Integration of Persons with Disabilities for period 2008-2016 is stated that denial of reasonable adaptations is considered as discrimination.³⁸

Also, the universal design principle, which is a guarantee of environment without barriers and discrimination, is for the first time proposed by the Law on Prohibition of Discrimination against Persons with Disabilities. Regulations that regulate special areas, where this principle has to be implemented (for example, regulations in area of spatial development and construction of structures, electronic media, offering different services and products), don't mention the term of universal design and therefore this is not a obligatory principle in those areas.

By the Law on Spatial Development and Construction of Structures and its bylaw, Ordinance on closer conditions and the manner of adjusting facilities for access and movement of persons with reduced mobility are proposed obligatory accessibility standards, i.e. conditions for access, movement, stay and work of people with reduced mobility and people with disabilities in facilities in public use and residential and residential-business buildings. These conditions are the mandatory part of urbanistic-technical conditions for construction of structures, and therefore – of the technical documentation, and they have to be included in the process of designing the structure. Meeting these standards in project documentation is being checked through revision and issuing building permit, and also their existing in the structure before issue of the exploiting permit. By this, Montenegro met the international legal obligation to adopt the minimal standards and guidelines for accessible public buildings (Article 9 Paragraph 2 Point a) of the UN Convention on the Right of Persons with Disabilities. However, those accessibility standards don't have to be implemented on the facilities in public use, residential and residential-business buildings that were excluded from the obligation of meeting those standards because of the scope by the Ordinance. Thereby the obligation of undertaking measures for creating conditions for enjoying human right to accessible physical environment is limited to the significant number of facilities in public use, residential and residential-business buildings.

Although Montenegro in its legislative proposed obligatory physical environment accessibility standards, in none of legally binding documents the obligation of Montenegro taken by ratifying the UN Convention to provide the **training and education on accessibility issue to all relevant subjects and participants** is proposed. This don't represent just incompatibility of the Montenegrin legal framework with the international standard, but a big threat for implementation of the obligatory accessibility standards in practice, which means discrimination on the basis of disability in access to facilities and areas in public use.

³⁸ Pg. 9 of the Strategy for the Integration of Persons with Disabilities (meaning of the terms)

V INSTITUTIONAL FRAMEWORK IN MONTENEGRO

5.1. INSTITUTIONAL FRAMEWORK AND PROCEDURES FOR IMPLEMENTATION OF THE STANDARDS OF PHYSICAL ENVIRONMENT ACCESSIBILITY

The Law on Spatial Development and Construction of Structures proposes more responsibility levels for creating and controlling of the accessibility standards implementation, as well as more subjects and institutions for monitoring the Law implementation. Also, there are proposed fines for subjects of standards implementation control, if control, i.e. check is not implemented conscientiously and legally. The most important decision makers and controllers in area of physical environment accessibility standards implementation, recognized by the Law on Spatial Development and Construction of Structures, are: Ministry of Sustainable Development and Tourism, secretariates of the local self governments responsible for area of spatial development, Urbanism Inspection and Building Inspection, Chamber of Engineering of Montenegro with its members.

5.1.1. Ministry of Sustainable Development and Tourism

Ministry of Sustainable Development and Tourism is **creator of the spatial development and construction of structures policy**, but also the most important **administrative control authority**, as well in control of implementation of regulations by other responsible authorities and subjects, also in the process of legality checking in specific cases of constructing facilities in public use. First of all, this Ministry proposes to Government of Montenegro text of Spatial Development Programme,³⁹ which is a document by which the policy of spatial development in Montenegro is defined for one year. By the Spatial Development Programme is precised the dynamics of spatial development, financing sources and terms of planning, operative measures for implementation of planning documents, creating new ones, i.e. amending of the current planning documents and important measures for creating and adopting those documents, as well as other measures for implementation of spatial development policy. Programme is created on the basis of a Annual year Report on Spatial Development State, which, among other, has to include information on: implementation of the planning documents, built structures including structures built contrary to the law (if considered needed, also defines the measures related to the structures built contrary the law, according to the accepted international obligations, including obligations of the UN Convention on the Rights of Persons with Disabilities), as well as review on expressed needs of the space users(Article 15 Paragraph 1 and 2).

In terms of implementation of Spatial Development Programme of Montenegro, Ministry is responsible for organisation of making drafts and proposals of state planning documents, as well as for giving opinion on drafts on local planning documents and agreement on adopted local planning

³⁹ Article 16 of the Law on Spatial Development and Construction of Structures („Official Gazette of MNE“ No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014.)

documents.⁴⁰ This is of special importance for the implementation of the legislative provisions related to the conditions for unobstructed access, movement, stay and work of people with reduced mobility and people with disabilities, taking into account that every planning document has to have an offprint with urbanistic-technical conditions for construction of structures (Article 29 Paragraph 2).

During construction of specific structures in public use, the Ministry follows the implementation of the physical environment accessibility standards and supervises the implementation of the regulations in this area.⁴¹ Within the Ministry for specific jobs in area of spatial development and construction of structures, there are responsible Directorates: Directorate for Spatial Planning, Directorate for Construction, Directorate for Tourism Development and Standards, Directorate for Housing Development. Among other divisions within directorates which cope with the specific issues in this area is also responsible **Division for Public Works** within Directorate for Construction⁴².

The Ministry **issues building and exploitation permits** for: state-owned structures of general interests, hotels, religious buildings, theatres, cinema, sport, exhibition and similar halls, with squaring more than **1.000 m²**, structures which make a spatial and functional unity with state-owned structures of general interest, apart hotels, condo hotels and garni hotels, defined by the planning documents, bridges with a span over 30m, systems and structures built at the territory of two or more local self-government units and stadiums with the capacity for over 3,000 visitors.⁴³ The construction can start only after gaining permit (Article 69). Ministry has the power and authority to prevent the start of constructing stated structures in public use which are not projected according to the Law on Spatial Development and Construction of Structures. Namely, the Ministry issues building permit on the basis of: **preliminary design or the master design, including a review report** (Article 93 Paragraph 1 Point 1). In this procedure, Ministry checks if the revisor (a member of Chamber of Engineering of Montenegro) has done the revision according to the Law, i.e. whether in the Review on conducted revision are stated real and accurate statements on compliancy of the preliminary and/or master design and technical documents with urbanistic-technical conditions, law and other regulations, technical normatives, standards, and norms of quality (Article 86 Paragraph 2 and Article 90 Paragraph 2). If the Ministry issues a building permit contrary to the Law, i.e. on the basis on preliminary or master design and review on conducted revision, made contrary to the Law, fine ranging from EUR 2,000 to 40,000 shall be imposed for a misdemeanour on a legal entity, whilst Minister and responsible person in Ministry shall pay the fine ranging from EUR 500,00 to 4.000 (Article 161 Paragraph 1 Point 10 and Paragraph 2).

Second level of checking implementation of conditions for unobstructed access, movement, stay and work of people with reduced mobility and people with disabilities, Ministry conducts in issuing exploitation permit for a facility in public use for which the building permit was issued. Exploitation permit is a condition to start using the facility in public use (Article 70), and it can be issued only if the structure was constructed according to the building permit and revised master design (Article 121 Paragraph 2 Point 1). Meeting of these conditions can be proved by statements of the contractor and supervising engineer that the structure has been constructed according to the building permit and reviewed master design, statement of the lead project engineer that the structure has been built according to the reviewed master design and by reviewed master design, if the building

⁴⁰ Article 33, 39, 41, 45 and 46 of the Law on Spatial Development and Construction of Structures („Official Gazette of MNE“ No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014.);

⁴¹ Article 144 of the Law on Spatial Development and Construction of Structures („Official Gazette of MNE“ No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014.)

⁴² Detailed at: <http://www.mrt.gov.me/ministarstvo/djelatnosti/133936/Djelokrug-rada-organizacionih-jedinica-Direkcije-javnih-radova.html>;

⁴³ Article 91 Paragraph 2 Point 1, 6, 6a, 9, 11 and 14 and Article 118 Paragraph 1 of the Law on Spatial Development and Construction of Structures („Official Gazette of MNE“ No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014.);

permit has been issued on the basis of the preliminary design⁴⁴. In order to check veracity of those statements, Ministry on the proposal of investor, names the performer of technical inspection, as independent subject, to control compliance of performed works with the master design, as well as with regulations, standards, engineering and quality norms⁴⁵ and writes a Report which submits to the Ministry and to investor (Article 123 Paragraph 4). Depending on suggestion in the Report on completed technical inspection,⁴⁶ Ministry: prohibit the use of the structure (Article 125 Point 3), order the investor to eliminate the identified deficiencies within the determined time frame (Article 125 Point 2 and Article 126 Paragraph 1), or issue the exploitation permit (Article 125 Point 1). If the Ministry orders the investor to eliminate the identified deficiencies within the determined time frame, the investor shall, after eliminating them, to request a repeated technical inspection and only the works that were supposed to be corrected or subsequently performed shall be examined (Article 126 Paragraph 1). On the basis of the report on repeated technical inspection, Ministry shall adopt the suitable decision (Article 126 Paragraph 2 and 3). If the Ministry has issued the exploitation permit for the structure in public use contrary to the provisions of the present Law, it shall be imposed a fine ranging from EUR 2,000 to 40,000 and Minister and responsible person in Ministry shall be punished with a fine ranging from EUR 500.00 to 4.000,00 (Article 161 Paragraph 1 Point 13 and Paragraph 2).

Therefore, Ministry of Sustainable Development and Tourism: defines the policy of spatial development and construction of structures through proposing Spatial development programme, through adopting national planning documents and giving approval on local planning documents, conducts the control of implementation of urbanistic-technical conditions, defined by the planning document, in every specific case of planning, construction and approval of exploitation of structure in public use for which is responsible to issue a building and exploitation permit; and than on implementation of the Law and other regulations in area of spatial development and construction of structures reports in the Report on the state of spatial development, through stating information on the structures constructed contrary to the Law. On the basis of the information from the Report on the state of spatial development, starts creating of the Spatial development programme and the process restarts.

According to the Law on Spatial Development and Construction of Structures, Ministry is responsible for issuing and **revocation of the licence from the subjects** which perform the tasks in area of spatial development and construction of structures (responsible planning engineers or planning engineers, residents, entrepreneurs). Licences shall be issued for the period of five years (Article 134 Paragraph 3), and **can be revoked for the period from one to five years if the licence holder performs operations contrary to the provisions of the Law** (Article 135 Paragraph 2). Considering that Government of Montenegro adopted the Regulation on subletting a part of the activities of Ministry of Sustainable Development and Tourism to the Chamber of Engineering of Montenegro,⁴⁷ those responsibilities of Ministry became the **activity of Chamber of Engineering of Montenegro**.

⁴⁴ Article 120 Paragraph 2 Point 1,2,3 and 6 of the Law on Spatial Development and Construction of Structures („Official Gazette of MNE“ No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014.);

⁴⁵ Article 122 Paragraph 1 and 2 and Article 123 Paragraph 1 and 2 of the Law on Spatial Development and Construction of Structures („Official Gazette of MNE“ No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014.);

⁴⁶ Article 124 of the Law on Spatial Development and Construction of Structures („Official Gazette of MNE“ No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014.);

⁴⁷ Regulation on Subletting a part of the activities of Ministry of Sustainable Development and Tourism to the Chamber of Engineering of Montenegro (“Official Gazette of Republic of Montenegro” No. 38/03 and “Official Gazette of MNE” No. 22/08 and 42/11);

5.1.2. Local government

Local governments are creators of the spatial development policies and controllers on their implementation, as well as policies on the national level, as well in specific cases of construction of structures in public use, as in terms of reporting on the state of spatial development on their territory. In that term Assembly of local government adopts a one-year Spatial development programme, by which the policy in this area on its territory is defined and on basis of which local planning documents are adopted.⁴⁸ Local planning documents, as well as national planning documents, have offprints with urbanistic-technical conditions which have to include a conditions for unobstructed access, movement, stay and work of people with reduced mobility and people with disabilities (Article 29 Paragraph 2 and Article 62 Paragraph 2 Point 2g). Secretariate responsible for spatial development area issues a building and exploitation permit for all structures in public use, except for the structures for which only the Ministry is responsible by the Law to issue a permit (Article 91 Paragraph 1). On this occasion, secretariats of local governments check: legality of planning and technical documents, veracity and accuracy of the statements in the Review on the conducted revision, compliance of the works done with planning and technical documents, suitability for use of the structure in public use. On the basis of all undertaken measures and identifies deficiencies, Secretariate write the Report on the state of spatial development in local government, which is then adopted by the Assembly of local government (Article 15 Paragraph 1). Also, the Secretariate is obliged to submit a Report to the Ministry of Sustainable Development and Tourism within 15 days from the day of adoption (Article 15 Paragraph 3). Report on the state of spatial development in local government includes, among other, information on: implementation of the planning documents, constructed structures, including structures constructed contrary to the law, as well as stated needs of the users of space on the local government territory (Article 15 Paragraph 2).

5.1.3. Inspection of urbanism and inspection of construction

In the Article 145 of the Law on Spatial Development and Construction of Structures is also proposed a inspection control of the implementation of the Law by the Administration for Inspection Affairs, which is conducting this control in area of spatial development through the Inspection of Urbanism (Article 146) and in area of construction of structures through the Inspection of Construction (Article 151). Inspection of Urbanism and Inspection of Construction are obliged to cooperate and inform each other on the measures and activities undertaken within the prescribed competencies (Article 145 Paragraph 3).

Inspection of Urbanism monitors the implementation of the Law in relation to the all planning documents and their implementation on the structures in public use, i.e. planning and technical documents, which have to be made on the basis of those planning documents (Article 147 Paragraph 1). In that term, Urbanism Inspector is competent to check legality in issuing planning documents, i.e. whether the planning document was made and adopted in compliance with the procedure proposed by the Law (Article 147 Paragraph 2 Point 1 and 2), but also to check whether in the planning document there was a offprint with urbanistic-technical conditions and whether urbanistic-technical conditions were issued to the interested parties in compliance with the planning document (Article 147 Paragraph 2 Point 4). Also, Urbanism Inspector is competent to check whether the preliminary design or master design on the basis of which the building permit has been issued was developed or reviewed in accordance with the planning document and the engineering specifications (Article 147 Paragraph 2 Point 6). Considering that urbanistic-technical conditions for structures in public use have to include conditions for unimpeded access, movement, residence and work of

⁴⁸ Article 15 Paragraph 1, Article 47 Paragraph 3 of the Law on Spatial Development and Construction of Structures;

persons with reduced mobility and persons with disabilities (Article 62 Paragraph 2 Point 29), the check and supervision on that conditions also refer to the physical environment accessibility standards. If Urbanism Inspector finds that the planning document wasn't adopted in accordance with the Law, it will warn the authority responsible for its adoption (Assembly of Montenegro, Government of Montenegro or Local government Assembly), and if these authorities don't act according to that warning, Inspector will propose Ministry to initiate the procedure for assessment of legality of the planning document (Article 148 Point 6 and 7). Urbanism Inspector can in term of compliance of the urbanistic-technical conditions to the Law and planning documents order Ministry, i.e. secretariate responsible for area of spatial development to harmonise the offprint or the engineering specifications with the planning document, prohibit their use and inform thereof the holder of engineering specifications, as well as to submit a request for initiation of misdemeanour proceedings against a secretariat for spatial development or Ministry and the responsible officer and the head of the body, or of the legal entity if it finds that the urbanistic-technical conditions have been issued contrary to the planning document (Article 148 Point 5 and 9a). If Urbanism Inspector finds that the preliminary design or the master design on the basis of which the building permit has been issued were developed contrary to the planning document or engineering specifications, it will propose the Ministry of Secretariate of Local government responsible for area of spatial development to cancel that building permit (Article 148 Point 8). It includes building permits issued on the basis of project documents which don't include physical environment accessibility standards. For subjects which don't make a planning documents, project documents or revision according to the Law, which includes non-respecting of the regulations related to physical environment accessibility standards, Urbanism Inspector can propose the Ministry to revoke that licence (Article 148 Point 3, 4, 9 i gb). If Ministry revokes the licence, it shall inform the Inspection of Urbanism about the licence revocation (Article 135 Paragraph 4).

Inspection of Construction monitors the implementation of the Law in construction of all structures in public use (Article 152, Paragraph 1). Within its authority are, among others: checking whether the reviewed master design has been produced in accordance with the preliminary design for which the building permit has been issued; supervision on the construction of the structure according to the reviewed master design, construction of the structures regulations, technical measures, norms and standards in construction; and control whether the constructed structure in public use or reconstruction of the structure, was issued a exploitation permit (Article 152 Paragraph 2 Point 3, 4, 7 and 9). In order to provide Construction Inspector does its job unimpeded, the Law prescribes that: it shall be submitted a building and exploitation permit (Article 102 and Article 130), that investor shall report the works to it seven days prior to the commencement of the construction of the structure and to submit to it reviewed master design (Article 105 Paragraph 2 and Article 111 Paragraph 1), that the contractor must inform it if the investor or the business company which developed the master design fails to eliminate the deficiencies they were warned about (Article 111 Paragraph 4), and that it shall attend the technical inspection of a structure (Article 122 Paragraph 4). When it finds the violation of the Law and other regulations in area of construction the structures, Construction Inspector is competent to: prohibit the construction of the structure if it is not performed in accordance with the reviewed master design and to order harmonisation of the master design with the preliminary design; prohibit the construction of the structure if the reviewed master design is not in line with the preliminary design on the basis of which the building permit has been issued and order harmonisations of the constructed structure with the master design within specific time frame; order the demolition i.e. removal of the structure and restoring the land to its original state, if the construction of the structure is performed regardless of the ban and if investor doesn't harmonise the constructed structure with the reviewed master design in a proposed time; prohibit the use of a structure for which exploitation permit has not been issued; propose to the Ministry or the Secretariate of the local government responsible for area of spatial development to annul the decision issuing the exploitation permit, if issued contrary to law; temporarily prohibit the performance

of activities if the business organisation, legal entity or entrepreneur if it acts contrary to the Law; propose to the Chamber of Engineering of Montenegro to annul the certification of the foreign person's licence, if it performs activities contrary to the provisions of the present Law (Article 153 Paragraph 2 Point 2, 2a, 3, 4, 7, 8, 9 and 10).

Construction inspector shall also attend the technical inspection of a structure (Article 122 Paragraph 4).

5.2. INSTITUTIONAL FRAMEWORK FOR PROTECTION FROM DISCRIMINATION BASED ON DISABILITY BECAUSE OF INACCESSIBILITY

In order to provide a protection of human rights and freedoms guaranteed By Constitution, law and confirmed international contracts, in the Article 81 of the Constitution of Montenegro is defined a protector of human rights and liberties as independent and autonomous authority. The competency and obligations of that institution are to on the principles of justice and fairness, take measures to protect human rights and freedoms, and they are detailed proposed in the Law on the Protector of Human Rights and Freedoms of Montenegro.⁴⁹

The Protector is authorized to act in specific cases of violation of human rights and freedoms, and he/she can initiate a procedure of examination of violations of human rights and freedoms following a complaint or by the initiative of the Protector after he/she finds out that the act, action or failure to act of authorities violated human rights and freedoms (Article 28 Paragraph 1 and 2). In order for Protector to act by his/her own initiative is required the consent of the victim (Article 28 Paragraph 3). The complaint can be filed by anyone who believes that his/her rights and freedoms are violated, personally or through a Member of Parliament, as well as organisation dealing with human rights and freedoms (Article 30, Paragraph 1 and 4). The complaint can be also filed by organisations or individuals dealing with the protection of human rights, with the consent of the person or the group of persons discriminated against (Article 22 Paragraph 2 of the Law on Prohibition of Discrimination).

If Protector considers that the violation can be remedied by another legal remedies, i.e. procedure, it may, during the examination procedure, instruct the complainant to exhaust these remedies (Article 33).

After completion of examining the violation of human rights and freedoms, the Protector shall issue an opinion on whether, how and to what extent the violation of human rights and freedoms occurred and gives a recommendation on what needs to be done to remedy the violation, as well as the deadline for its remedy (Article 41). The Head or the person managing the authority on whose work refers the recommendation, shall be obliged to, within the provided deadline, submit the report on actions taken to carry out the recommendations (Article 42 Paragraph 1), but Protector doesn't have enforcement mechanisms of Opinion and Recommendation, so if the Head or the person managing the authority fails to comply with the recommendation within a specified deadline, the Protector may inform the immediate superior authority, inform the public or submit a special report (Article 42 Paragraph 2), whilst the Head or the person managing the authority is not proposed a misdemeanor. However, the Protector may submit the initiative for opening a disciplinary procedure or procedure for the dismissal of the person whose work or failure to act resulted in violation of human rights and freedoms, also he/she may submit a request for initiation of misdemeanour proceeding for misdemeanours defined by the Law on the Protector of Human Rights and

⁴⁹ Law on the Protector of Human Rights and Freedoms of Montenegro („Official Gazette of MNE“, No. 42/2011 and 32/2014);

Freedoms of Montenegro and Law on Prohibition of Discrimination (Article 44).

By the Law on Prohibition of Discrimination this institution was given a role of institutional mechanism for protection from discrimination. In that term, Protector, besides stated, has a possibility to, when the deems necessary, i.e. when the complainant proves plausible and Protector states that the discrimination on the same basis was executed against a group of persons with similar personal characteristics (for example, disability), to initiate a court proceeding for the protection from discrimination or shall join a discriminated person in that proceeding as an intervener (Article 27 Paragraph 3 of the Law on the Protector of Human Rights and Freedoms of Montenegro and Article 21 Paragraph 4 of the Law on Prohibition of Discrimination). In the Article 21 Law on Prohibition of Discrimination gives a competency to the Protector to: conduct the conciliation proceeding, with the consent of the person allegedly discriminated against, between that person and authority or other legal and natural person he/she considers to have performed discrimination; inform the public about the important issues of discrimination; collect and analyse statistical data on cases of discrimination; and in Annual Report to the Assembly of Montenegro devote a special part to the implemented activities on protection from discrimination and promotion of equality (Article 21, Point 3, 5, 7 and 9).

In the article 24 of the Law on Prohibition of Discrimination is given a possibility to every person with disability who was discriminated in area of access, i.e. use of the facilities and areas in public use, to initiate a procedure for protection from discrimination before the court. The procedure is initiated through filing a lawsuit within a year from the day of cognition for the committed discrimination, i.e. within 3 years after discrimination was committed (Article 27), and the provisions of the law regulating civil proceeding shall be accordingly applied on the proceeding (Article 24 Paragraph 3). In the Article 30 of this Law is stated that the lawsuit may be filed, on behalf of discriminated persons, also by organisations or individuals who are dealing with the protection of human rights, but also by anyone who is or can be in position of the discriminated person according to any of the basis regulated by this Law.

For initiation of lawsuit for misdemeanour from the Article 34 Paragraph 1 Point 7 of the Law on Prohibition of Discrimination and from the Article 111 Paragraph 1 and 2 of the Misdemeanor Law⁵⁰ are competent: discriminated person, inspection bodies, as well as other bodies performing public authorities. For monitoring over the implementation of the Law on Prohibition of Discrimination, as well over the Law on Prohibition of Discrimination against Persons with Disabilities are responsible appropriate inspections, i.e. Inspection of construction in area of discrimination in the access and use of the facilities and areas in public use (Article 32 of the Law on Prohibition of Discrimination and Article 28 Paragraph 1 of the Law on Prohibition of Discrimination against Persons with Disabilities).

⁵⁰ Misdemeanor Law („Official Gazette of MNE“, No. 01/11 of 11.01.2011, 06/11 of 25.01.2011, 39/11 of 04.08.2011 and 32/14 of 30.07.2014);

VI IMPLEMENTATION OF THE REGULATIONS IN THE PRACTICE IN MONTENEGRO

6.1. IMPLEMENTATION OF THE PHYSICAL ENVIRONMENT ACCESSIBILITY STANDARDS

Although the Law on Spatial Development and Construction of Structures was adopted in 2008, it has been done so little on its implementation in practice. The best evidence to this is the fact that document in which the priority state structures in public use for complying with the obligation from the Article 165 of the Law (**Action Plan for adjustment of public facilities for access, movement, and use of persons with reduced mobility and persons with disabilities⁵¹**), **was adopted yet on 24th October 2013, almost two months after deadline** from this Article. Therefore is not surprising the fact that in state Budget for 209, 2010, 2011, 2012 and 2013 weren't planned resources for adjustment of the facilities in public use to the conditions for access, movement, stay and work of the people with reduced mobility and people with disabilities, although 43% of the citizens think that these expenses shall be paid from the state Budget.⁵²

Besides stated because of the **negative opinion by the Ministry of finance⁵³ the first draft of the Action Plan for 2011 wasn't even adopted**, it stayed in the form of Draft. In which extent the procedure of facilities adjustment stagnates in practice, and how the state, i.e. its authorities don't respect the law themselves, is described by the fact that in Action plan adopted by the Government in 2014, **there are 13 same facilities as in 2010**, whilst from the adopted Action plan was excepted a Customs Administration- Customs Office Podgorica.⁵⁴

Yet in the Working Plan of Government of Montenegro for 2013 was proposed a creation of the Action plan for adjustment of public facilities for access, movement, and use of persons with reduced mobility and persons with disabilities for 2014. In the Capital Budget for 2014, there were allocated only 400.000,00€ (less than 25% of needed resources, whilst "finding" of the rest of resources is ordered by the institutions covered by this Action plan, and "considering possibilities" for finding additional donations by the Ministry of Labour and Social Welfare and Ministry of Sustainable Development and Tourism⁵⁵) for realization of this Action plan, out of which were spent only 75.284,20€ for tender procedure and creating technical documents for adjustment of the facilities in public use

51 Point 3 http://www.gov.me/sjednice_vlade/40;

52 Page 50, Research of the Association of Youth with Disabilities of Montenegro, Perception of the state of people with disabilities, available on: <http://umhcg.com/wp-content/uploads/2013/11/UMHCG-istrazivanje.pdf>;

53 Ministry of Finance gave a negative opinion with explanation that needed resources for adaptation of the 14 state-owned facilities in the public use for access and movement of people with reduced mobility in the amount of EUR 1.834.600,00, *aren't planned in the Capital Budget for 2011*. - Annex to the Montenegro Progress Report to the European Commission for 2012 http://www.mvpei.gov.me/ResourceManager/FileDownload.aspx?rid=132907&rType=2&file=1_78_06_09_2012.pdf

54 Pg. 136 (spreadsheet) of the Annex to the Montenegro Progress Report to the European Commission for 2012; http://www.mvpei.gov.me/ResourceManager/FileDownload.aspx?rid=132907&rType=2&file=1_78_06_09_2012.pdf

55 Conclusion of the Government 08-1335/3 - http://www.gov.me/sjednice_vlade/40 - Point 3;

covered by the Action plan.⁵⁶ So, **in the year to which Action plan was related, didn't start works on any of 13 priority facilities in public use**, so unused resources (324.415,80 €) were sent back to the state Budget. By the Budget for 2015 is allocated 450.000 €, and until 23.09.2015. there were spent 136.235,25 € and were agreed implementation of the works in amount of 434.565,26€. Until now were started works on adjustment of the facilities: Department of Public Revenues in Podgorica, Center of social welfare in Podgorica, Assembly of Montenegro, Public Institution Health center in Pljevlja and i Public Institution Health center "Dr Niko Labović" in Berane, and it's expected to be finished at the end of 2015.⁵⁷ On adjustment of rest 7 priority facilities in public use, recognized by the Action plan, still wasn't done anything.

Ministry of Sustainable Development and Tourism which is the most competent for monitoring of the implementation of the Law on Spatial Development and Construction of Structures in the Decision upon the Request to Free Access to Information by he AYDM⁵⁸ stated it **has not any information about the activities it should conduct in monitoring (following) and evaluation of implementation of the regulations related to accessibility for people with reduced mobility and people with disabilities**. therefore this institution hasn't information about: to how many built facilities in public use was related the obligation from the Article 165 of this Law, *how many facilities in public use met this obligation, whether some of the facilities, and how many, adjusted to the physical environment accessibility standards after the deadline from the Article 16, and how many of them didn't meet the obligation yet*. Also, Ministry doesn't have a information whether and how many facilities in public use, residential and residential-business buildings after adoption of the Law were **construced or reconstructed contrary to the physical environment accessibility standards**, which are defined by it, and don't have information on the number and type of initiated lawsuits for misdemanors of the Law, although in the official documents of the Ministry, especially in those sent as annex to the Review to the European Commission, is stated that the Ministry acts according to the Law when it's about issuing builing and exploitation permits.⁵⁹

Information, submitted by Ministry of Sustainable Development and Tourism, are related to its activities on promotion of the regulations by which mandatory implementation of the physical environment accessibility standards is regulated. Ministry **started promotion of the regulations of the Law on Spatial Development and Construction of Structures just in December 2012, after more than four years after adoption of the Law, just eight months before the deadline** of the Article 165 of the Law and **five years after adoption of the Strategy for the Integration of Persons with Disabilities** for period 2008-2016 which among its main goals includes: Provide the access for people with disabilities to their living environment, public transport, institutions, services, communication systems and information through planned and designed removing barriers and building accessible facilities and services.⁶⁰

Unpromptness of the Ministry in promotion mandatory accessibility of the facilities in public use to people with disabilities is proved by the fact that every fourth citizen of Montenegro (28,2% of interviewees) hasn't heard that Law on Spatial Development and Construction of Structures proposes those obligations.⁶¹ In period since 26th December 2012 until 5th December 2014 were held 10 round tables, target groups of which were: owners and competent subjects for monitoring over facilities in the area of Public Enterprise for Coastal Zone, National parks, touristic facilities and

56 Annex of the Decision of Ministry of Sustainable Development and Tourism, No. UP I 1201/5-117/2 of 23.09.2015;

57 Decision of Ministry of Sustainable Development and Tourism, No. UP I 1201/5-117/2 of 23.09.2015;

58 Decision of Ministry of Sustainable Development and Tourism, No. UP I 1201/5-117/2 of 23.09.2015;

59 Pg. 134 of the Annex to the Montenegro Progress Report to the European Commission for 2012; http://www.mvpei.gov.me/ResourceManager/FileDownload.aspx?rid=132907&rType=2&file=1_78_o6_09_2012.pdf

60 Pg. 10 of the Strategy for the Integration of Persons with Disabilities for period 2008-2016; <http://www.mrs.gov.me/ResourceManager/FileDownload.aspx?rid=93285&rType=2>

61 Page 8 and 48, Research of the Association of Youth with Disabilities of Montenegro, Perception of the state of people with disabilities, available on: <http://umhcg.com/wp-content/uploads/2013/11/UMHCG-istrazivanje.pdf>;

facilities under the protection of the culture monuments, secretariats of the local self governments responsible for the area of transport, subjects who provide services on counters, architects and representatives of the local self governments. Round tables had the goal to promote regulations which prescribe mandatory accessibility of the facilities and areas in public use for people with reduced mobility and people with disabilities and consideration of adjusted and planning future activities in this field.⁶²

Inspection of urbanism since adoption of the Law on Spatial Development and Construction of Structures until 1st January 2015 **hasn't received any initiative** for inspection supervision over implementation of the conditions for access, movement, stay and work for people with reduced mobility and people with disabilities and making and issuing urbanistic-technical conditions and issuing building permits, nor in conducting inspection supervision noticed incorrect implementation of the Law in the part related to those conditions. During 2015 physical environment accessibility standards were correctly applied in preparation and issuing urbanistic-technical conditions, but in the cases of four structures, building permit was issued contrary to those standards. These are two residential buildings in Budva for which Inspector of urbanism initiated Proposal for cancellation of the building permit, and two tourism-catering facilities in Kotor and Herceg Novi, for which the procedure of undertaking activities and measures of Inspector of urbanism was in progress, when we got information.⁶³ Inspection of urbanism, besides stated administrative measures, **hasn't undertake any administrative activity of its competence in monitoring process** over Law implementation, which would be related to the meeting conditions for unobstructed access, movement, stay and work of people with reduced mobility and people with disabilities. **Inspection of construction** hasn't submit **misdemeanor charges for not fulfilling obligations from the Article 73 and 165 of the Law** on Spatial Development and Construction of Structures, nor for violation in form of illegal issuing of exploitation and building permit. On the answer whether there were reports of the citizens on which Inspection of construction hasn't reacted to, we got an answer that construction Inspectors answered to submitted initiatives in a previous period, but didn't state how many initiatives were submitted, when, and what have been answered upon them.⁶⁴

Although 2014 there weren't adopted any planning documents for adjustment of already built structures, Strategy for the Integration of Persons with Disabilities and Action plans prescribed those measures, out of which 11 weren't realized, and some of them are related to: **continuous supervision by the monitoring group for construction of new structures which will be consisted of architects and representatives of PWD organisations**, with initiating lawsuits and sanctioning violators of the Law, prescribe in the regulations that, during purchase or sale of public facilities, **mandatory define the obligation of new owner to adjust the building to the needs of PWD** according to the existing standards **in the purchase contract, to planned introduce the systems of SOS line for removal of architectural barriers etc.**⁶⁵.

Besides Government Action plan which was limited to 2014, Capital of Podgorica adopted **Action plan for Adjustment of the Facilities in public use in ownership of Capital – Podgorica for access and movement of people with reduced mobility and people with disabilities for 2014-2015**⁶⁶, while Municipality of Tivat adopted **Action plan for Adjustment public transport areas to movement of people with reduced mobility and people with disabilities** in 2014⁶⁷.

That the issue of accessibility is still approached as a social, instead of human rights issue, can be

62 Annex of the Decision of Ministry of Sustainable Development and Tourism, No. UP I 1201/5-117/2 of 23.09.2015;

63 Notification of the Administration for Inspection Affairs, Department of the Inspection of urbanism, No. 0402/1-sl of 08.10.2015;

64 Notification of the Administration for Inspection Affairs, Department of the Inspection of construction No. UP 0801-03/2015-99/2-2 of 24. 09. 2015;

65 Measures of the Strategy for Integration of Persons with Disabilities - Area of Accessibility, Pg. 37 anf 38;

66 <http://www.skupstina.podgorica.me/sadrzaj/xli-sjednica-3-april-2014-godine-o> Point 1;

67 <http://opstinativat.com/cg/images/stories/Vijesti/DOKUMENTA/2014/akcioni%20plan%20-%20saobracaj.pdf>

proved by the fact that Government of Montenegro in the adoption of the Conclusion with the Action plan obliged at first Ministry of Labour and Social Welfare to find additional sources of financing for implementation of the Action plan because competence for issues of people with disabilities are often restricted to the Ministry of Labour and Social Welfare, i.e. to social policy.

Also, Capital adopted Action plan on the initiative of Secretariat of social welfare, although within Capital offices exists Secretariate of urban planning, spatial development and environment protection, competencies of which are related to: creating regulations in the area of spatial development, building land and construction, conducting preparatory and other activities related to creation and adoption of local planning documents; keeps records on requests and needs of space users and other data important for spatial planning and development; keeps record on issued spatial development conditions, structures built contrary to the planning documents and other related data; issues urbanistic-technical conditions, building and exploitation permits etc.

6.2. PROTECTION FROM DISCRIMINATION BASED ON DISABILITY BECAUSE OF INACCESSIBILITY OF PHYSICAL ENVIRONMENT

Although, because of the minimal implementastion of the obligations from the Article 165 of the Law on Spatial Development and Construction of Structures discrimination on the basis of disability in access to faciulities and areas in public use is still very present, there are still a few procedures on protection from this type of discrimination on the basis of disability and they don't have satisfactory results in practice. Until the end of September 2015 there were initiated seven court proceedings on protection from discrimination on basis of disability because of inaccessibility of the physical environment and three proceedings before the Protector of Human Rights and Freedoms of Montenegro.

First court proceeding on protection from discrimination on basis of disability because of inaccessibility of the physical environment was initiated in 2011 against Municipality of Nikšić before the Basic Court in Nikšić. During 2013 before Basic Court in Podgorica were initiated two proceedings on protection from discrimination on basis of disability because of inaccessibility, against Health Insurance Fund and Assembly of Montenegro. During 2014 there were initiated three more court proceeding before the Basic Court in Podgorica against: Hypo Alpe Adria Bank, Glavnog grada Podgorica Capital of Podgorica, and State of Montenegro and Directorate for Youth and Sports. In 2015 was initiated one more court proceeding against Capital of Podgorica. Only two full final judgments, one partially final judgment were rendered so far, in two proceedings was declared the Revision to the Supreme Court of Montenegro, in one proceeding was initiated a second instance procedure, while for the proceeding initiated in 2015, the preliminary hearing wasn't held yet. Besides court proceedings last too long (more than two years), in them is often rejected as unfounded claim to order the defendant to undertake all needed measures in order to prevent repetition of discrimination, which people with disabilities ask for on the basis of Article 26 Paragraph 1 Point 2 of the Law on Prohibition of Discrimination. Far in four court proceedings this request was accepted as founded, while two proceedings were final in the part of this claim, one of which by the Supreme Court of Montenegro.⁶⁸

Protector of Human Rights and Freedoms of Montenegro never used the authorization from the Article 21 Point 4 of the Law on Prohibition of Discrimination, and haven't initiated any court proceeding on protection from discrimination on basis of disability because of inaccessibility to facilities and areas in public use. In three out of seven proceedings on protection from discrimination initiated by persons with disabilities, Protector stated as intervener in 2014. Complaintss before the Protector were initiated in three cases of violation of human rights of people with disabilities

⁶⁸ Verdict of the Supreme Court of Montenegro, Rev. No. 822/12 of 09.04.2015;

because of inaccessibility: two in 2012 and one in 2015. Complaints of 2012 were related to inaccessibility of the facilities of Regional Unit of Ministry of the Interior in Podgorica and Basic Court Nikšić, whilst complaint of 2015 was related to the facility of Students' centre of the Public Institution Health Centre Podgorica. In the complaint against Ministry of the Interior, Protector suggested discriminated person to use another legal remedy, whilst procedure against Basic Court in Nikšić was ended, because discriminated person with disability initiated a court proceeding for protection from discrimination. On the Complaint against Public Institution Health Centre Podgorica, Protector issued an opinion on 30th June 2015, in which is stated that discrimination was made and issued a Recommendation for discriminator to accelerate the pace of adjusting that health facility to people with disabilities.⁶⁹

Although the implementation of the Article 33 of the Law on Prohibition of Discrimination is possible through adoption of the bylaw by Ministry for Human and Minority Rights, **the electronic data base about initiated proceedings before different bodies and their results related to protection from discrimination is still not made**, and Protector would have access to it, so the Protector doesn't have information on initiated proceedings for protection from discrimination, which disables this institution to monitor the state in this area and exercise its power appropriately. However, Inspection of construction informed us that it didn't undertake legal actions in cases of discrimination on basis of disability because of inaccessibility.

Although the one of the main powers of Protector is to inform the public about serious and most often types of discrimination, area of access to the facilities and areas in public use, where discrimination on basis of disability is evident on every step, was recognized by the citizens as area in which people with disabilities are discriminated at least. Just 6,7% of citizens of Montenegro think that this is area in which people with disabilities are discriminated the most.⁷⁰ A big percentage of citizens couldn't answer to the question to assess the level and number of barriers in physical environment. So 11,5% of citizens didn't know "how big" the level of the barriers in the street is, 11,8% of citizens didn't know to assess the level of physical barriers in transport, 14,2% of citizens don't know in which extent health institutions are inaccessible, 15,3% of citizens are uninformed about level of inaccessibility in education and 15,5% of citizens are unconscious of the inaccessibility of commercial-catering facilities. Even 16,5% of citizens don't know how big is the level of inaccessibility of state authorities, and every fourth citizen is not aware of inaccessibility of court institutions (22,9 %) and local institutions (23,2 %)⁷¹.

The evidence that Protector didn't work enough on promotion of possibilities available before this institution for protection of human rights and non-discrimination principle in previous period, is a fact that 34,5 % of citizens don't know which institutions should play the most important role in protection of the rights of people with disabilities, and just 26,7% of them think that it should be state and state authorities.

Is humiliating for all competent institutions in area of human right of people with disabilities to accessibility the fact that just 2,8% of Montenegrin citizens recognize them as subjects which fight the most for the rights of this population.⁷² It's the proof of inefficiency and unwillingness of the system institutions to exercise their powers in this area and to provide exercising basic human rights and freedom to people with disabilities in that way.

69 Information of Protector of Human Rights and Freedoms of Montenegro, No. 03-900/15-1 of 29.09.2015;

70 Page 20, research of AYDM: Perception of the state of people with disabilities, available on: <http://umhcg.com/wp-content/uploads/2013/11/UMHCG-istrzivanje.pdf>;

71 Ibidem, Pg. 32 - 46;

72 Page 25, Research of AYDM: Perception of the state of people with disabilities, available on: <http://umhcg.com/wp-content/uploads/2013/11/UMHCG-istrzivanje.pdf>;

VII EXAMPLES OF GOOD PRACTICE IN LEGAL AND NORMATIVE REGULATIONS OF THE ACCESSIBILITY OF PHYSICAL ENVIRONMENT

Just since changing the paradigm of medical attitude of disability phenomenon to inclusive access to all, i.e. attitude based on human rights and equalization of possibilities for all in the area of accessibility to people with disabilities are gained significant improvements in the international community.

In this part we will mention some examples which could be used for making as more inclusive environment.

In **Sweden** state through elements of national disability plan equalizes environment factors with accessibility standards and undertakes financing adjustment costs. Swedish Government appointed a competent authority which monitors the implementation of the national action plan and ensures the achievement of the set goals.

In **Great Britain** Prime Minister's Office, according to the intention to create sustainable liocal communities published "Guidelines on Successful Practice on Disability and Planning". Planning on the local level proves the importance of the legislative related to people with disabilities, underlines the needs of those with reduced mobility and explains the importance of the planning system in creating environment appropriate for all. Initiative of the Department of Health " A New Strategy for Learning Disability " was designed to improve the life of those people, through education of their families and to help in recognizing their rights as citizens, social inclusion in local community, as well as choice to do their everyday existence needs as independent persons. As suppot to this strategy, Government prepared a counselling programme for people with disabilities and experts on this issue.

In **Finland**, Minister of Environment signed the codex on construction through which is implemented a national guideline which defines norms and regulations for projecting residential buildings. National Council of people with disabilities welcomed the Codex and at the same time expressed concern about planning insfrastructure, residence, education, social and health services. Recently a few relevant Ministers prepared their accessibility strategy. So the Ministry of transport issued a strategy on exercising transport accessible for all. Ministarstvo prosvjete Ministry of education published a similar national projects in area of education and culture.

In **Spain**, importance of developing accessible environment is detailed in National Accessibility Plan. Plan was prepared and designed in accordance with the principles of "design for all" and with emphasis on access to new technologies.

Italy promotes the policy of removing barriers in facilities of public importance. Special commit-

tee developed a process of harmonizing legal measures which regulate construction of facilities of public importance.

In **Greece**, Ministry of environment, planning and public works, together with other competent organisations prepared a Law on construction, which defines the accessibility of the facilities of public importance for people with disabilities. Also, during preparation of Olympic and Paralympic Games in 2004 were set criteria which everybody followed during construction sport facilities, highways and other structures. Ministry of transport prepared needed adjustment of the public transport vehicles, buses, planes and trains, as well as stations and airport terminals. Adjustments were made with consultation of associations which gather people with disabilities.

7.1. ACCESSIBILITY AWARD

European Union, according to its motto "Europe without Borders", in 2010 established a Access City Award⁷³ which "rewards cities for their work to achieve more accessible environments in all areas of life, making cities more inclusive and accessible to all. Every edition shows good examples of projects, demonstrating the enthusiasm and commitment of cities across the EU in facilitating accessibility for disabled and older people. In the last five years, over 200 cities have applied for the award. Projects presented by cities provide a wealth of ideas for making cities better places to live for all."⁷⁴

The award is given to city in which is proved and sustainably improved accessibility in essential aspects of city life, and which has specific plans for future improvements. The award includes activities in areas of:

- built environment and public areas;
- public transport and appropriate infrastructure;
- information and communication, including new technologies (ICT); and
- public facilities and services.

Previous winners of this competition were:

In the 2010 **inaugural edition**, the winning city was Ávila in Spain. The three other finalists were Barcelona (Spain), Cologne (Germany) and Turku (Finland).

For the **second edition, the Austrian city of Salzburg** was named the overall winner. The three finalist runners-up were Kraków (Poland), Marburg (Germany) and Santander (Spain). Special mentions went to Terrassa (Spain), Ljubljana (Slovenia), Olomouc (Czech Republic) and Grenoble (France).

In the **third edition**, the Award was given to the **German city of Berlin**. Nantes (France) and Stockholm (Sweden) were the other two finalists, with special mentions going to Pamplona (Spain) for the built environment and public spaces, Gdynia (Poland) for transport and related infrastructures, Bilbao (Spain) for information and communication, including new technologies and Tallaght (Ireland) for public facilities and services.

⁷³ Access City Award http://ec.europa.eu/croatia/news/2015/20150615_hr.htm;

⁷⁴ Access City Award http://ec.europa.eu/croatia/news/2015/20150615_hr.htm;

In the **fourth edition**, the 2014 winner was **Gothenburg (Sweden)**. Grenoble (France) took the second prize, Poznań (Poland) the third prize, and the special mentions went to Belfast (UK), Dresden (Germany), Burgos and Málaga (Spain).

This year, 2015 the winner was **Borås (Sweden)**. Helsinki (Finland) took the second prize and the third prize was awarded to Ljubljana (Slovenia). Logroño (Spain) was awarded a special mention in the field of the built environment and public spaces, Budapest (Hungary) received a special mention for its work in the field of transportation. Arona (Spain) and Luxembourg got a special mention for public facilities and services.

Borås, the 2015 Access City Award winner, is an historic city with a population of 107,000. One of the key factors that has made Borås a winner is the clear and long standing political commitment which the city has made to the concept "a Borås accessible for all".

The main goal was to ensure that the environment of the city does not discriminate against any of its inhabitants. Both financial and human resources have been put in place to deliver this goal and the city works closely with the Borås disability advisory board in all matters.

Borås has established an accessibility database which lists all the public buildings that meet accessibility standards. In addition, shops, restaurants, dentists and other private amenities have been inspected and classified. They have also been given feedback where necessary to improve their accessibility.

An accessibility award has been set up to encourage private businesses in the city to improve their accessibility.

Borås also applies accessibility standards in the built environment which go beyond the legal norms. It provides a subsidy to make private housing accessible, to ensure that people with disabilities have equal opportunities for independent living.

Public transport in Borås is free for disabled and older people in addition to the specialist mobility service which offers an unlimited number of trips.

All of the city's buses and bus stops are accessible to people with reduced mobility as well as to those with vision impairment. Pedestrian crossings are in the process of being equipped with level access, acoustic signals and tactile guidance.

Borås has made an ITS Commitment to make the urban environment accessible for all citizens irrespective of ability or age. The accessibility database is available in easy read and voice synthesis versions, and the city's website and newsletter also have accessibility features and are connected to a telephone service for those who need support.

A scheme to install digital "locks without keys" in entrance doors has given greater personal security to many older people. Easier access for care services is also provided as part of the scheme, such as responsive alarm calls.

Accessibility of public facilities and services is guided by an accessibility strategist and an accessibility advisory officer. They work closely with the municipality's disability advisory board and with organisations representing older people to ensure that accessibility standards are achieved and maintained and to coordinate activity on accessibility across all aspects of the city's life. This includes availability of information on accessibility to disability organisations, architects, construction companies, private businesses and anyone else who needs it.

Sustainability and continuity of results are assured through the close working relationship between the city and the advisory boards of older and disabled people. This collaborative approach is key to shaping the city's agenda for accessibility and determining priorities. Every department in the municipality has a contact person with a responsibility for accessibility issues.

„I have been a wheelchair user for more than 14 years. Over that time I have seen a big change in Borås in terms of accessibility in the streets (removing raised kerbs). Facilities for swimming and natural areas have also been made accessible, which to me means a freer and more independent life.“ - Christian Hedin

As well as Borås, other awarded cities their success in building accessible environment owe to clear and accurate plans and norms on both national and local levels, as well to strong decision to ensure needed resources for achieving set goals. Main goal of policies designed in this way is to create non-discriminating environment which will provide inclusion for all its members and be close to general idea of “Europe without Borders”.

VIII CONCLUSION AND RECOMMENDATIONS

The issue of accessibility of public space and facilities is still not an integral part of the general planning system on the level of built environment in the practice, because the experts public deals with it only when it's required (for example, pressure of the citizens, media, local and international organisations etc.).

A current legislative related to accessibility is not respected enough, and sanctions for those who don't respect the regulations are applied rarely or never.

There are many problems in construction area that reflects in inability of the state and local governments to cope with illegal construction and removal of illegally constructed structures or in direct participation of state and local officers and clerks, highly positioned individuals in politics and business who participate in illegal construction and corruption in this area.

Although the meeting of the standards of physical environment accessibility is stated as one of the conditions which are checked while issuing building and exploiting permit, often we can find a newly built structures in which basic elements of accessibility weren't built.

One of the main problems in a current state is that term "accessibility" is still wrongly understood just as "accessibility for people with disabilities", instead of "a possibility of independent and equal participation for all". It causes that in practice very often we have a "special solutions" based on a needs of people with disabilities (design for people with disabilities), instead on the needs of every potential beneficiary (concept "design for all"). Besides, accessibility for people with disabilities is observed narrowly, narrower than a real meaning and often causes that under that term is understood access to the building, flat surface or the ramp or escalator in the interior.

Because of this, we have a very weak results in practice, lack of interests of decision makers and broader population for creating accessible environment, wrong approach to solve a problem of inaccessibility of public space and wrong solutions in the practice.

General and expert public don't give enough importance when it's about difference of the population in context of understanding demands and needs of different beneficiaries (elders, people with disabilities, people with permanent health impairments etc). Process of planning and projecting public environment is oriented to "average user", also syllabi on faculties don't recognize and include a term of accessibility and concept "design for all".

Reasons for that have a base in the low awareness and lack of information of the decision makers and citizens in general, as well as disrespect of the current technical standards for projecting. On the other side, there is a big ignorance and lack of multidisciplinary and systematical approach to solve this issue.

At the same time, in Montenegro is very low number of experts dealing with the issue of accessibility, mainly from the organisations of people with disabilities. Despite the presence of relatively good measures and norms in Montenegrin legislative (Law on Spatial Development and Construction of Structures, Law on Prohibition of Discrimination against Persons with Disabilities), still weren't made resources for control and development in accessibility area. Wider public still didn't understand the point and essence of full participation of all citizens, so we just started to access this

problem according to the plan.

Although it passed seven years since the Law and Regulations were adopted, we point out to the "fact that despite the presence of relatively good legislative, regulations are still not respected, so still none of the facilities in public use is adjusted to the needs of different types of disability"⁷⁵

The following recommendations were derived from the situational analysis, as well from analysis of local and international regulations in area of spatial development and prohibition of discrimination:

1. introduce **reasonable adaptations in non-discrimination legislative and regulations that regulate spatial development and construction of structures** in term that respecting and implementation of the accesibility standards doesn't exclude a obligation of reasonable adaptations;
2. define the **principle of universal design (design for all)** of the physical environment in the regulations that regulate spatial development and construction of structures;
3. plan and implement the obligation of continuous realization of the training and education on accessibility and principle of universal design for all important parties in areas of spatial development and construction of structures, including **introduction of this materials in the syllabi which educate the staff for work in areas of planning, designing and offering products and services** in widest meaning of that term;
4. change bylaws in order to **reduce number and scope of the subjects which are not covered with the obligation of mandatory accessibility standards implemtation**;
5. **prescribe unequivocally competence of Inspection of construction over control of inspection supervision of the Article 165** (which is related to obligation of adjustment of the facilities built befor adoption of the Law) of the Law on Spatial Deveopment and Construction of Structures, i.e. prescribe specific administrative measures for aforementioned Article of the Law;
6. **establish Agency for revision of accessibility and design for all** which will be competent to initiate discussion about accessibilitiy, collect and analyse official domestic and international regulations, documents ant send it to all who asks for them, as well as examples of good practice which could be used as a resoure in training and transferred to another situations. This „Agency“ would be a key body in organisation of conferences, meetings, education and development of the information material, education and raising awareness whih ensure dissemination of knowledge. This agency should issue independent expert reports on accessibility and design for all, on basis of which state and local communities would take measures and politics;
7. in regulations regulating transport area introduce **mandatory accessibility of facilities and vehicles as a condition for performing activities in the public transport**;
8. while amending **Public Procurement Law** define a priority under the same conditions for organisations of people with disabilities when they occur as **suppliers of goods and services as well as construction works**;
9. while amending **Public Procurement Law** **prescribe a sanctions (misdemeanour norms) for those who violate the norm** of the Parapgraph 3, Article 50 of the Law, related to **accessibility standards**;

⁷⁵ Report from the Round table "The role of the architects in respecting regulations in area of accessibility in building for people with reduced mobility and people with disabilities" <http://www.sacg.me/uloga-arhitekata-u-postovanju-propisa-u-oblasti-pris-tupacnosti-objekata-visokogradnje-za-lica-smanjene-pokretljivosti-i-lica-sa-invaliditetom/>;

10. while creating new Strategy for the Integration of Persons with Disabilities **conduct a quality analyse of the implementation of the measures in accessibility area**, and according to the current state **define new measures which will include unrealized measures from the Action plans**.
11. provide the **transport service for passengers with disabilities by the local governments** („door-to-door“ transport) **as alternative transport until providing full accessibility of vehicles in urban and suburban public transport;**
12. strenghten process, administrative and financial capacities of the Protector of Human Rights and Freedoms of Montenegro for participation in all court proceedings for protection from discrimination.

In term of regulations implementation is needed:

13. make a list/base of the state owned facilities and areas in public use, with accessibility assessment according to the rules proposed by the Ordinance on closer conditions and the manner of adjusting facilities for access and movement of persons with reduced mobility;
14. make a list/base of the facilities and areas in public use, **on the local level** with accessibility assessment according to the rules proposed by the Ordinance on closer conditions and the manner of adjusting facilities for access and movement of persons with reduced mobility;
15. adopt a **Strategic plan on th national level with two-year action plans for ensuring accessibility** of state owned facilities and areas in public use for peopel with disabilities and create bodies with parity of participation of people with disabilities for improvement and monitoring the state of the physical environment accessibility, i.e. monitoring the implementation of the Strategic plan;
16. adopt the **plans on the local level with two-year action plan for ensuring accessibility** to the facilities and areas on the local self government territories in public use for people with disabilitiies and create **bodies** with parity of participation of people with disabilities for improvement and monitoring the state of the physical environment accessibility, i.e. monitoring the implementation of the plans on the local level;
17. improve the **supervision system over the construction of structures** and strictly respect the regulations of the Law on Spatial Development and Construction of Structures in order to improve implementation of the accessibility standards for people with reduced mobility and people with disabilities and **implement sanctions for violation of those standards;**
18. improve the **supervision of the Chamber of Engineering of Montenegro over the work of their members and implement the measures of revocating licences** in the cases of non-implementing the accessibility standards in planning and construction of the facilities and areas in public use;
19. within the **internet presentations of the subjects dealing with the issues of spatial development and construction of structures** (for example, site of Chamber of Engineering of Montenegro, Minitry of Sustainable Development and Tourism, Administration for Inspection Affairs, etc.) **publish the list of positive and negative examples („white and black list“)** of respecting, i.e. not respecting the accessibilitiy standards in construction, re-

construction and adaptations of the facilities in public use;

20. provide **service on the internet page of Ministry of Sustainable Development and Tourism to report violation of accessibility standards in construction, reconstruction and adaptations of the facilities in public use** in the purpose of prosecuting them to the competent inspection and **Chamber of Engineering of Montenegro** to undertake legal measures.

ABOUT THE ORGANISATION

Association of youth with disabilities of Montenegro is non-profit and non-government organisation, founded on 22nd October 2001, which gathers youth and students with every type of disabilities (cross-disability attitude), as well as other young people without disabilities who are ready to take part and together with us fight for availability and inclusion of PWD in every area of the Montenegrin society. AYDM deals with providing the psycho-social support, creating conditions for inclusive education, encouraging youth with disabilities to gain higher education, initiatives for appropriate legislative solutions, providing the support services, raising awareness of the society...

Vision of AYDM: For youth with disabilities, without barriers!

Mission of AYDM: AYDM promotes the equal status of the youth with every type of disability in the society through the initiatives and activities for establishing the legal, educational, cultural and social framework which allows that.

Our activities are implemented through 6 programmes and one sub-programme within which we implement individual projects, and that programmes are: Legal programme and antidiscrimination; Programme of education; Programme of employment and development of human resources; Accessibility Programme; Programme of independent living – sub-programme of guide dogs and service dogs, and Programme of international cooperation.

Legal Programme and Antidiscrimination and Programme for Accessibility

Legal Programme and Antidiscrimination is based on a goal of promotion and protection of human rights of people with disabilities. Programme is actively functioning since 2004, and it includes counselling, initiating adoption of the regulations, monitoring of rights of people with disabilities and writing reports, publishing, educations and trainings and many other activities through various projects or regular activities. Throughout this programme a significant number of comments on regulations prepared by state institutions are being prepared, as well as local self governments, especially institutions of the Capital during a preparation phase or through a parliament procedure of adoption. Also is initiated adoption of the new regulations which define rights of people with disabilities and take part in their making.

Besides projects, Association within this programme was actively supporting and continues to support exercising the rights and protection from discrimination of its members before justice institutions.

Accessability Programme is based on a goal to incite removal of the architectural barriers. Implementation of the programme started with the project "Faculty for all" in 2004, and continued through

the project: “Raise my voice – destroy the barriers” in 2005. Through this programme, Association initiates adjustment of the institutions and facilities in public use according to the Law on Spatial Development and Construction of Structures and follows the implementation of the Law.

U cilju In order to indicate the problem of inaccessibility and achieving higher level of respecting accessibility standards, i.e. firstly removing architectural barriers, and promotion of the universal design, reasonable adaptations and other mechanisms recognized by the modern architecture and construction, AYDM cooperates with the Ministry of Sustainable Development and Tourism and with Engineers Chamber of Montenegro, for which we write texts for a magazine “View”.

Also, the Association provides support for people with disabilities in the cases of legal protection from discrimination since adoption of the Law on Prohibition of Discrimination and Law on Prohibition of Discrimination against Persons with Disabilities.

LITERATURE AND REFERENCES:

- Law on the Ratification the UN Convention on the Rights of Persons with Disabilities, downloaded from: <http://www.mrs.gov.me/ResourceManager/FileDownload.aspx?rid=161710&rType=2&file=ZAKON%20O%20RATIFIKACIJI%20KON.UN.O%20PRAVI-MA%20LICA%20SA%20INV.%20SA%20OPCIONIM%20PROTOKOLOM.pdf>;
- The Law on the Ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("Official gazette od Serbia and Montenegro – International Contracts, No. 9/2003 and 5/2005), downloaded from: <http://www.pravda.gov.me/ResourceManager/FileDownload.aspx?rid=49387&rType=2&file=1246442064.doc>;
- UN Universal Declaration of Human Rights, downloaded from: http://www.ombudsman.co.me/docs/izvjestaji/deklaracija_o_ljudskim_pravima.pdf;
- European Concept for Accessibility, downloaded from: http://www.czuns.org/dokumenti/publikacije/01a_Evropski_koncept_pristupacnosti_EKP_srp.pdf;
- Charter of fundamental rights of European Union, original text available on: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:EN:PDF>;
- Treaty on the functioning of the European Union, original text available on: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>;
- Action plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015, downloaded from: [www.coe.int/.../Rec\(2006\)5%20%20Bosnian.doc](http://www.coe.int/.../Rec(2006)5%20%20Bosnian.doc)
- Resolution ResAP (2007)3 "Achieving full participation through Universal Design", downloaded from: [www.czuns.org/dokumenti/.../03_Rezolucija_ResAP\(2007\)3_srp.doc](http://www.czuns.org/dokumenti/.../03_Rezolucija_ResAP(2007)3_srp.doc)
- The Constitution of Montenegro ("Official Gazette of MNE" No. 1/2007 of 25.10.2007);
- Law on Prohibition of Discrimination ("Official Gazette of MNE" No. 46/10 of 06.08.2010, 40/11 of 08.08.2011, 18/14 of 11.04.2014);
- Law on Prohibition of Discrimination against Persons with Disabilities Official Gazette of MNE No. 35/15 of 07.07.2015
- Law on the Protector of Human Rights and Freedoms of Montenegro („Official Gazette of MNE ", No. 42/2011 and 32/2014);
- Law on Spatial Development and Construction of Structures, Official Gazette of MNE, No. 51 of 22.08.2008, 40/10 of 22.07.2010, 34/11 of 12.07.2011, 40/11 of 08.08.2011, 47/11 of 23.09.2011, 35/13 of 23.07.2013, 39/13 of 07.08.2013 and 33/14 of 04.08.2014.

- Misdemeanor Law („Official Gazette of MNE“, No. 01/11 of 11.01.2011, 06/11 of 25.01.2011, 39/11 of 04.08.2011 and 32/14 of 30.07.2014.)
- Public Procurement Law, („Official Gazette of MNE“, No. 28/2015.)
- Strategy for the Integration of Persons with Disabilities for period 2008-2016. <http://www.mrs.gov.me/ResourceManager/FileDownload.aspx?rId=93285&rType=2>
- Ordinance on closer conditions and the manner of adjusting facilities for access and movement of persons with reduced mobility („Official Gazette of MNE“, No. 51/08, 34/11 and 35/13);
- Model of Decision on installation, or construction and the removal of access ramps, elevators and similar facilities for access and movement of persons with reduced mobility and persons with disabilities, available on:
- <http://www.uom.co.me/wp-content/uploads/2014/06/Modeli-web.pdf>
- Regulation on Subletting a part of the activities of Ministry of Sustainable Development and Tourism to the Chamber of Engineering of Montenegro („Official Gazette of Republic of Montenegro“ No. 38/03 and „Official Gazette of MNE“ No. 22/08 and 42/11)
- Verdict of the Supreme Court of Montenegro, Rev. No. 822/12 of 09.04.2015;
- Research of Association of Youth with Disabilities of Montenegro, Perception of the state of people with disabilities, available on: <http://umhcg.com/wp-content/uploads/2013/11/UMHCG-istrazivanje.pdf>
- Annex to the Montenegro Progress Report to the European Commission for 2012 http://www.mvpei.gov.me/ResourceManager/FileDownload.aspx?rid=132907&rType=2&-file=1_78_06_09_2012.pdf
- Annex of the Decision of Ministry of Sustainable Development and Tourism, No. UP I 1201/5-117/2 of 23.09.2015;
- Decision of Ministry of Sustainable Development and Tourism, No. UP I 1201/5-117/2 of 23.09.2015 Rješenje Ministarstva održivog razvoja i turizma, br. UP I 1201/5-117/2 od 23.09.2015.godine;
- Annex of the Decision of Ministry of Sustainable Development and Tourism, No. UP I 1201/5-117/2 of 23.09.2015;
- Notification of the Administration for Inspection Affairs, Department of the Inspection of urbanism, No. 0402/1-sl of 08.10.2015;
- Information of Protector of Human Rights and Freedoms of Montenegro, No. 03-900/15-1 of 29.09.2015;
- Access City Award http://ec.europa.eu/croatia/news/2015/20150615_hr.htm
- Report from the Round table “The role of the architects in respecting regulations in area of accessibility in building for people with reduced mobility and people with disabilities” <http://www.sacg.me/uloga-arhitekata-u-postovanju-propisa-u-oblasti-pristupacnosti-objekata-visokogradnje-za-lica-smanjene-pokretljivosti-i-lica-sa-invaliditetom/>
- Site of the Government of Montenegro: <http://www.gov.me/> (link Cabinet meetings, doku-

ments: Decisions)

- Site of the Protector of Human Rights and Freedoms of Montenegro: www.ombudsman.me
- Site of the Ministry of Labour and Social Welfare: <http://www.mrs.gov.me/> (link Library)
- Sajt Ministarstva održivog razvoja i turizma Site of the Ministry of Sustainable Development and Tourism: <http://www.mrt.gov.me/> (links: Library, Organisation)
- Site of the Ministry of Foreign Affairs and European Integration <http://www.mvpei.gov.me/>;
- Site of the Directorate of Public Works: <http://www.djr.gov.me/>
- Site of the Public Procurement Administration: <http://www.ujn.gov.me/>
- Portal Disabilityinfo: www.disabilityinfo.me/
- Site of the Capital Podgorica, link Assembly <http://www.skupstina.podgorica.me/>
- Site of Municipality of Tivat <http://opstinativat.com/>

