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| ACCESS TO JUSTICE AND UNEQUAL TREATMENT

Ensuring access to justice and improving social inclusion are universally acknowledged global priorities, at the core of the 2030 Agenda for Sustainable Development. The European Union places access to justice a prerequisite for States wishing to join the EU. Therefore, it is essential for Serbia, as a country aspiring for EU accession, to identify the barriers and difficulties experienced by citizens and especially vulnerable groups in accessing justice and upholding their rights, to ensure the full implementation and effective enforcement of national and international laws and meet the requirements for EU accession. From a rights-based perspective, access to justice is often seen as a gateway to the enjoyment and protection of other fundamental human rights and promotes social inclusion, while barriers to access to justice reinforce poverty and exclusion. Moreover, inability to resolve legal problems may diminish access to economic opportunity, reinforce the poverty trap, and undermine human potential including ability to enforce own economic and social rights, including property and labour rights.¹ Therefore, the focus on access to justice and the protection of the law is deliberate as it transcends sectors and can provide much needed protection to vulnerable groups and also facilitate more inclusive access in the respective sectors. The 2021 Regional Justice Survey for Serbia revealed that most citizens believe that the judicial system does not treat all equally and that some forms of discrimination exist. The author analysis the barriers to access to justice in Serbia and grounds for discrimination of citizens in the judicial system. The author elaborates practice of the European Court of Human Rights and EU Court of Justice and their interpretation of the violation of access to justice right.

Keywords: *access to justice, barriers, equality, discrimination, EU accession*

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¹ Beqiraj, J., McNamara, L., (2014) *International Access to Justice: Barriers and Solutions*. Bingham Centre for the Rule of Law Report 02/2014, International Bar Association, October 2014.

1. Access to justice as a human right

At the heart of the 2030 Agenda for Sustainable Development lies a vision of a “just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.”² Access to justice is at the heart of poverty reduction debate (Shami, 2022: 337). The justice gap undermines human development, reinforces the poverty trap, and imposes high societal costs.³ Justice is a thread that runs through all 17 of the Sustainable Development Goals (SDGs) and is critical to end poverty, reduce inequality and promote peace and inclusion.⁴ SDG 16, and in particular target SDG16.3 aims to ensure equal access to justice for all by 2030.⁵ In 2008, the United Nations Commission on Legal Empowerment of the Poor estimated that four billion people live outside the protection of the law, and that “the majority of humanity is on the outside looking in ... on the law’s protection”.⁶ To address this challenge, the United Nations Development Programme (UNDP) argues that access to justice is “a basic human right as well as an indispensable means to combat poverty, prevent and resolve conflicts”.⁷

Access to justice is institute that evaluate over the time and has remote historical origin (Cruz, Salles, 2020: 177). Access to justice is a basic principle of rule of law and a critical feature of the rule of law is the equality of all before the law. As a part of this equality, all persons are entitled to the protection of their rights by state institutions, particularly judiciary (Ghai, Cottrell, 2010: 3). The narrow concept of access to justice focuses on the courts and the process where person presents case for adjudication. Over time, notion of access to justice has broadened to access to every stage of the legal process, from the creation and implementation of laws, to dispute resolution processes (Backhouse, 2005: 113). Effective access to justice is essential right enshrined in numerous instruments within the universal human rights protection system. According to international and European human rights law, the access to justice obliges states to guarantee each individual’s right to go the court to seek and obtain a remedy if it is found that the

² United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development*, New York, 2015.

³ The World Justice Project, *Measuring the Justice Gap*, 2019, https://worldjusticeproject.org/sites/default/files/documents/WJP_Measuringpercent20thepercent20Justicepercent20Gap_final_20Jun2019.pdf

⁴ UN Taskforce on Justice, (2019) *Justice for All: the Report of the Task Force on Justice*.

⁵ See: <https://sustainabledevelopment.un.org/sdg16>

⁶ UN Commission on Legal Empowerment of the Poor, (2008), *Making the Law Work for Everyone: Report of the Commission on Legal Empowerment of the Poor*, United Nations, New York, p. 3

⁷ United Nations Development Programme (2004), *Access to Justice: Practice Note*, New York: United Nations, p. 3.

individual's rights have been violated, which lies at the centre of effective human rights protection.⁸ Access to justice enables individual to protect themselves against infringements of their rights, to remedy civil wrongs and hold executive power accountable and to defend themselves in criminal proceedings.⁹

Access to justice is not expressly used as legal terminology in international instruments, since it includes a number of core human rights, such as the right to a fair trial and the right to an effective legal remedy. The narrow interpretation of access to justice as right to counsel, fair hearing and equality of citizens before the court are found in the constitutions of several countries, such as Germany and Switzerland (Johnson, 2000: 109).

At the global level, the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948 includes several articles that highlight the importance of access to justice. Article 8 of the Declaration states that 'Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution of by law'. Article 10 of the Declaration states that 'Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his right and obligations and of any criminal charges against him'. The principle of access to justice for all under international law was further strengthened by the International Covenant on Civil and Political Rights that entered into force in 1976. Article 2 of the Covenant states that each party to it will 'ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy'. The Covenant also includes the obligation 'to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State'. Furthermore, UN Human Rights Committee has led the way among UN treaty bodies in interpreting concepts relating to access to justice.¹⁰

At the European level the access to justice concept is enshrined in Article 6 and 13 of the European Convention of Human Rights (ECHR) and Article 47 of the EU Charter of Fundamental Rights, which guarantee the right to a fair trial and to an effective legal

⁸ United Nations Development Programme, (2005) *Programming for Justice: Access for All: A Practitioner's Guide to Human Rights-Based Approach to Access to Justice*, Bangkok: UNDP.

⁹ European Union Agency for Fundamental Rights, (2016) *Handbook on European law relating to access to justice*, Luxembourg, p. 16.

¹⁰ United Nations, (2007) *Committee on Human Rights, General Comment No. 32*.

remedy, as interpreted by the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU). Core elements of these rights include effective access to a dispute resolution body, the right to fair proceedings and the timely resolution of dispute, the right to adequate redress, as well as the general application of the principles of efficiency and effectiveness to the delivery of justice.¹¹ Already in 1979, the European Court of Human Rights held in *Airey v. Ireland*¹² that Article 6 of the European Convention of Human Rights sometimes ‘compels the State to provide for the assistance of a lawyer when such assistance proves indispensable for an effective access to court either because legal representation is rendered compulsory, as is done by the domestic law of certain Contracting States for various types of litigation, or by reason of the complexity of the procedure or of the case’.¹³

However, the European Union introduced within the Treaty of Lisbon, a specific reference to access to justice. The Treaty on the Functioning of the European Union (TFEU), Article 67(4) stipulates that the Union shall facilitate access to justice, in particular through the principles of mutual recognition of judicial and extrajudicial decisions in civil matters.¹⁴

According to long established case law of the CJEU, access to justice is one of the constitutive elements of the European Union based on the rule of law.¹⁵ This is guaranteed in the treaties through establishing a complete system of legal remedies and procedures designed to permit the CJEU to review the legality of measures adopted by the institutions.¹⁶

Access to justice must be much more than a mere formal possibility, it must also be feasible in practical terms.¹⁷ Within the EU legal order, the right to effective legal

¹¹ European Union Agency for Fundamental Rights (2011) Access to justice in Europe: an overview of challenges and opportunities, Luxembourg, p. 9.

¹² Case *Airey v Ireland*, Application no. 6289/73, judgement 9 October 1979.

¹³ Para 26 of the judgement.

¹⁴ Article 81(2)(e) refers to access to justice and Article 81(2)(f) to the “elimination of obstacles to the proper functioning of civil proceedings”.

¹⁵ Reasoning for establishing the principles of direct effect (*Costa v. ENEL*, Case 6/64, 15 July 1964), as well as the concept of state liability (*Francovich and Bonifaci v. Italy*, Case C-6 and C-9/90, 19 November 1991) and the requirement that national remedies for breaches of rights derived from Community law comply with the principles of equivalence and effectiveness (*Preston v. Wolverhampton Healthcare NHS Trust*, C-78/98, 16 May 2000).

¹⁶ Case 294/83, *Les Verts v. Parliament*, No. 25, paragraph 23.

¹⁷ Opinion of Advocate General Ruiz-Jarabo Colomer, CJEU, *Roda Golf & Beach Resort SL*, C-14/08, paragraph 29, delivered on 5 March 2009.

protection equally covers access to the EU courts, as well as access to national courts and tribunals for the enforcement of rights derived from EU law.

According to international and European instruments and ECtHR and CJEU jurisprudence the access to justice includes several dimensions: individuals' access to courts, legal representation for those who cannot afford it, and equality of outcomes. There is no access to justice where citizens, especially marginalized groups, fear the system and so do not use it, where the justice system is financially inaccessible, where individuals lack legal representation, or where they do not have information or knowledge of their rights.

The European Commission emphasizes the importance of enhanced access in justice system reform and therefore Serbian authorities included relevant parts in the Action plan for Chapter 23 as umbrella strategic document for reform of the justice sector. To better understand where Serbia stands against access to justice standards, author analysis the barriers to access to justice and ground for discrimination of citizens in the judicial system. In the assessment, the ECtHR and the CJEU interpretation of access to justice and violation of access to justice is used.

2. Limitation to access to justice

Access to justice has both substantive and procedural components (Larson, 2015: 11). Access to justice requires procedural fairness. Without procedural fairness, courts cannot provide effective access to justice (Fawcett, Shuilleabhain, Shan, 2016: 63). Furthermore, the access to justice depends on substantive law that is capable of producing just outcomes (Goddard: 2019: 476). Although substantive access to justice have improved over time, procedural access may not have kept pace. Financial aspects are real limitation to access, as well as physical barriers for persons with disabilities or individuals living in poverty (Sandefur, 2010, 133). Institutional barriers also limit access to justice for reasons that include ponderous or bias court system, discriminatory police conduct, expense or political interference. Additionally, limited education and social custom impair access to justice.

Lack of impartiality of judiciary pose additional barrier to access to justice. Possibility of biases, whether explicit or implicit, undermine impartiality and thus access to justice. To be effective access to justice requires persons are aware of, and understand, their legal rights (Beqiraj, McNamara, 2014: 8). A widely recognized access to justice problem is limited by access to legal representation (Cornford, 2016: 39). It is difficult to identify a

lawyer who is appropriately licensed and qualified to represent party. Additionally, cost of consulting may not be affordable to some citizens or could be denied by criminal justice institutions (Matic Boskovic, 2020: 67). Lack of affordability is another access to justice problem that exist in many disputes (Cappelletti, Garth, 1978: 12). In some cases, additional costs, such as expert witness or travel costs may make access to justice even less affordable. Procedural rules can pose access to justice barrier due to restrictive rules of standing, pleading, and jurisdiction, and expansive rules of governmental immunity (Chemerinsky, 2017: 17). The difference between parties can influence outcome of judicial process for reasons unrelated to the legal strength of claims. This tendency undermines equal access to justice (Rhode, 2004: 21).

Characteristics such as socioeconomic status, ethnicity, education and gender can hinder awareness and access to formal justice procedure (Vapnek et al, 2016: 33). Some forms of social barriers are linked to formal institutional barriers. The prominent example of social inequality is often linked to gender and ethnicity that often determine the extent of usage of formal institutions (Jensen, 2011: 930).

The most usual limitation is deriving procedural conditions of access to courts, in particular time limits and prescription period. The practice of European Court of Human Rights and Court of Justice of EU recognized that states have a wide margin of discretion in laying down procedural requirements for exercise of the right of access to justice.¹⁸ In order for such limitations to be acceptable from the point of view of effective access to justice, their length should be set in such a way as not to render the right to proceed before a court impossible.¹⁹

At the substantive level, restrictions on access to justice must be distinguished from the situation where the unavailability of remedies is due to the lack of legal recognition of the right claimed. In many countries the restriction exists in access to the Supreme Court through introduction of filtering criteria to ensure that Supreme Court decides only on cases of precedential value (Kolakovic Bojovic, Tilovska Kecheji, 2018: 118). True restrictions on access to justice exist when the law of the relevant state provides for a general exclusion, or certain modalities, of suits under certain circumstances of in relation

¹⁸ ECtHR Case *Stubbings v. the United Kingdom*, application no. 22083/93 and 22095/93, paragraph 51. The CJEU *Slagterier v Germany*, C-445/06, 24 March 2009, paragraph 32; CJEU, *Aprile v. Amministrazione delle Finanze dello Stato*, C-228/96, 17 November 1998, paragraph 19; CJEU, *Marks & Spencer v Commissioners of Customs & Excise*, C-62/00, 11 July 2002, paragraph 35.

¹⁹ The Estonian Supreme Court held that even though the legislator has a wide discretion in deciding over the length of time limitations to complaints, these limitations could not be disproportionately short.

to a certain class of persons. In the *Lithgow* case,²⁰ the European Court of Human Rights upheld the British legislation requiring that all claims related to compensation for the nationalization of an entire sector of the economy be funnelled through a shareholder representative. The orderly processing of the claims, in view of their number and complexity, was considered a legitimate aim of the United Kingdom government. At the same time the restriction was considered to be proportionate to the achievement of such aim.

Restriction on access to justice with regard to certain classes or type of persons have also been accepted in the case of vexatious or frivolous litigants who may abuse the right by making repeated and unfounded claims. The legitimate aim of protecting potential defendants from undue harassment or of preventing the clogging of the judicial system with frivolous claims.

Legal standing represents the gateway for access to justice. In the area of non-discrimination law, the Racial Equality Directive²¹ (article 7), Employment Equality Directive²² (article 9), Gender Equality Directive²³ (Article 17) and Gender Equality Directive on Goods and Services²⁴ (Article 8) oblige Member States to ensure, in accordance with the national law, that associations, organizations or other legal entities may engage in judicial or administrative proceedings on behalf or in support of victims, with the victim's permission.

Legal costs are for many people barrier for access to justice. Although there is no absolute right to legal aid as instrument for financial access to justice, under human rights law, the European Court of Human Rights uses a different test. It looks at the importance of the right people are trying to enforce, as well as whether the denial of legal aid will stop people from having a fair hearing. The ECtHR in case *Stankov v. Bulgaria*²⁵ held that

²⁰ Case *Lithgow and Other v the United Kingdom*, application number 9006/80, 9263/81, 9265/81, 9266/81, 9313/81, 9405/81, judgement of 24 June 1986.

²¹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

²² Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

²³ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

²⁴ Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of good and services.

²⁵ Application 68490/01, 12 October 2007.

imposition of a considerable financial burden due after the conclusion of the proceeding acted as a restriction on the right of access to court.²⁶

3. Access to justice in Serbia

Access to justice is not only part of the EU accession process for Serbia, but also an economic development concern, as constraints on access to justice and unequal treatment appear to create a drag on businesses. The judicial system remains an obstacle for the business environment. Around one-third of business sector representatives reported that the situation in the justice system negatively impacts the business environment in Serbia.²⁷

At the global level Serbia ranks the low among the EU countries in terms of accessibility and affordability of the civil justice system and ranks 55 out of 139 states.²⁸ However, Serbia's ranking improved from 2014 to 2021 from 0.48 to 0.60,²⁹ as well as in comparison to non-EU neighbouring countries, since regional average is 0.59 compared to 0.60 that Serbia has.

According to the 2021 Regional Justice Survey Report for Serbia,³⁰ the perception of courts accessibility is high, three-quarters of citizens and business believe the court to be accessible. However, when the distinction is made between different dimensions of accessibility, more than half of citizens perceive affordability as the biggest challenge to accessing the justice system, while 38 percent of businesses believe the same.

²⁶ Similar position the ECtHR held in case *Kreuz v. Poland*, application no. 28249/95, 19 June 2001, in which Court found a violation of Article 6 ECHR and the ruling lead to changes in the Court Fees Act to make the fee system more efficient and transparent.

²⁷ Understanding Barriers to Doing Business: Survey Results of How the Justice System Impacts the Business Climate in South East Europe, World Bank, 2019.

²⁸ World Justice Project's Rule of Law Index 2021, available at: <https://worldjusticeproject.org/rule-of-law-index/country/2021/Serbia/Civil%20Justice/>

²⁹ The 2021 World Justice Project Rule of Law Index measures the accessibility and affordability of civil courts, including whether people are aware of available remedies; can access and afford legal advice and representation; and can access the court system without incurring unreasonable fees, encountering unreasonable procedural hurdles, or experiencing physical or linguistic barriers. The Survey covers 128 countries and jurisdictions, the Index relies on national surveys of more than 130,000 households and 4,000 legal practitioners and experts worldwide. Scale is from 0 to 1, and 1 is the best.

³⁰ The World Bank, (2021) Regional Justice Survey, Serbia Country Report, Survey Feedback on Judiciary Efficiency, Quality, Accessibility, Fairness, Integrity, Costs, and Reform Expectations, Report No: AUS00002445.

Although the legislative framework provides various possibilities for exemption from court fees, there are a number of problems in practice. Both, Law on Court Fees and Civil Procedure Code do not include deadline for submitting request for exemption of court fees nor deadline for court to decide on request.³¹ Also, absence of regulation often creates problems regarding the form of the decision, whether it should be in the form of special decision or it should be part of the judgement. The lack of consolidated data on the implementation of the court fee waiver rules further complicates the assessment of this mechanism in practice.

In Serbia, the Constitution guarantees the right to legal aid. In recognition of the principle, Serbia after more than decade of preparation adopted the Law on Free Legal Aid in 2018,³² which application started on October 1, 2019. However, there are still challenges in application of the Law.

Public awareness and knowledge about free legal aid is limited and most citizens are unaware of any free legal services that might be provided. Only five percent of the general population is familiar with the details related to free legal aid, according to 2021 Regional Justice Survey. Additional challenge is funding of the free legal aid. The costs of the legal aid provided by municipal legal aid services are covered from the local self-government budget, while costs for services provided by lawyers, notaries and mediators are covered 50 percent from the local self-government budget and 50 percent from the budget of the Republic of Serbia.³³ Effective implementation of the Free Legal Aid Law is hindered by lack of proper budget planning and a shortage of funds in municipalities' annual budgets. The only instrument for measuring users' satisfaction is a complaint submitted against a lawyer.³⁴

Knowing the law and having a conception of justice are important elements of access to justice. While citizens are not expected to have the same knowledge of the law as a legal professional, their familiarity with basic provisions and key tenets of the law is a precondition for accessing justice. Access to and awareness of laws, a pre-requisite to access to justice, is still limited in Serbia. 2021 Regional Justice Survey results suggested that one third of citizens perceived access to information, including access to laws, as a

³¹ Court practice assessment – application of court fee waivers rules, YUCOM, MDTF-JSS, 2018, available at: <https://www.mdtfjss.org.rs/archive//file/Analiza%20sudske%20prakse%20oslobadje%20od%20troskova.pdf>

³² Official Gazette, No. 87/2018.

³³ Article 30 of the Law on Free Legal Aid.

³⁴ In 2020, 7 complaints were submitted against lawyers and the Bar Chamber will decide.

challenge.³⁵ People often do not know where to find regulations and miss practical information concerning their rights or procedures for their protection. Frequent changes of legislation undermine individuals' access to justice, an issue recognized by lawyers as significant challenge.

4. Access to justice for vulnerable groups in Serbia

While access to justice is a fundamental right to everyone in society, vulnerable groups are those that continue to face barriers in this regard. This can be a result of the lack of knowledge on the specific rights of these groups. These groups include, among others, victims of trafficking and forced labour, the LGBTI community, immigrants and minority ethnic groups, Roma, victims of gender-based violence, children in conflict with the law³⁶ and persons with disabilities. Importantly, individuals in these groups are not inherently vulnerable. Rather, individuals in these groups are rendered vulnerable due to social conditions. While these groups differ significantly in size and the nature of their vulnerability, they have something in common: the lack of a rights-based approach in the justice system marginalizes them and further compounds their existing vulnerabilities.

Discrimination is an obstacle that can affect all aspects of access to justice, from awareness and understanding of legal rights, to access to counsel and to dispute resolution mechanisms, and finally the achievement of fair, impartial and enforceable solutions. While de jure discrimination can be repealed through laws, elimination of de facto discrimination requires additional positive strategies.

Poverty is both a cause and a consequence of inadequate levels of access to justice. On the one hand, reduced financial and human resource allocations to justice institutions produce failures in the justice system. These failures in turn have a disproportionate impact on the poor, precisely because of their lack of individual economic resources enabling them to overcome systemic failures. On the other hand, when equal access to justice is denied, people living in poverty are less able to enforce their economic and social rights. Moreover, poverty as a barrier to access to justice is exacerbated by other structural and social obstacles generally connected to poverty status, such as reduced access to literacy and information, discrimination and stigmatization. Socially marginalized and otherwise disadvantaged people will be more seriously affected than

³⁵ See: Chart General Perception of Three Specific Aspects of Accessibility.

³⁶ More about access to justice for children in: Cerovic, I. (2019) The Role of Non-Governmental Organisations in Implementing the Rights of the Child, In: *Yearbook Human Rights Protection – Protection of Rights of the Child*, Provincial Protector of Citizens, Institute for Criminological and Sociological Research, pp. 283-300

the general population. Acknowledging the importance of access to justice as a fundamental tool for tackling poverty, the UN Special Rapporteur on extreme poverty and human rights recommended its inclusion as a standalone goal or as a target in the post-2015 development agenda (Sepulveda Carmona, 2013: 2).

Access to justice for women may be difficult due to gender inequality in society and in the justice system due to multitude of obstacles such as taboos, prejudices, gender stereotypes, customs, ignorance and sometimes even the laws.

Women living in rural areas, elderly women, women with disabilities, lesbian, bisexual, transgender women, trafficked women, migrants and women from certain social, ethnic or religious groups are structurally disadvantaged. This may be due to specific disadvantages at the socio-economic level but can also be the result of a lack of awareness of their specific needs among justice or law enforcement officials. Women from these groups are also often victims of stereotyping, which can result in bias and insensitivity on the part of the justice system, or even denial of justice.³⁷

When it comes to the LGBTI community, in the past two decades, Serbia has established a strong legal and policy framework to ensure equality for LGBTI people, to prevent exclusion, discrimination and violence based on SOGI³⁸, and to ensure equal and unobstructed access to justice for all Serbians including LGBTI people. However, the recent World Bank research³⁹ revealed that gaps in implementation of antidiscrimination and hate crime legislations persist which discourages reporting by those LGBTI people who experienced legal problems and decreases confidence and trust in the justice system.

To enable women to access the justice, judicial remedies shall be accessible and effective. The case *Airey v. Ireland*⁴⁰ demonstrated that judicial remedies that allow a victim of domestic violence to escape the violent situation through, inter alia, divorce or separation proceedings must be accessible and effective to guarantee practical protection to a victim in a vulnerable position. Such effective access can require that the victim is afforded legal aid due to the complexity of the case, the victim's unfamiliarity with the court proceedings

³⁷ Council of Europe, (2016) Guaranteeing equal access of women to justice, Strasbourg.

³⁸ Equal Rights Trust (2019) Equality in Practice, Implementing Serbia's Equality Laws, London. Available at: https://www.equalrightstrust.org/sites/default/files/ertdocs/Serbia%20report_EN.pdf p. 26 et seq.

³⁹ World Bank (2022) Identifying and Understanding Barriers to Access to Justice for LGBTI People in Serbia, Washington DC.

⁴⁰ Application no. 6289/73, 9 March 1977.

but also from the victim's weakened capacity to represent her case due to her emotional involvement.

The Regional Judicial Survey revealed that most citizens of Serbia do not consider the judiciary equally accessible to all citizens. According to the general population, unequal treatment of the citizens is primary based on economic status and different political party membership. Almost half of citizens believe that degree of education impacts treatment by the courts, while around one third believe that ethnicity, sexual orientation and gender affects treatment. Age is mentioned as a reason for different treatment by 28 percentage of general users. Disability and religious differences are mentioned by 22 percentage of citizens.

A considerably smaller percentage of judges and prosecutors think that different categories of citizens are treated disparately. However, 27 percent of judges and 31 percent of prosecutors party membership as grounds for unequal treatment.

Members of the business sector also think that there is disparate treatment of residents and legal entities. 57 percent of representatives of business sector believe treatment of economic enterprises depends on their ownership structure and 47 percent think that treatment varies by size of the enterprise. Another 40 percent believe that treatment depends on the specific geographic location in which the business is located, while 38 percent have concluded it depends on the type of economic activity.

Conclusions

Ensuring access to justice for all requires acknowledging and overcoming a range of social, economic and social barriers and limitations. Over the last few decades, as a part of EU accession process and reform of judiciary, the legislative guarantees of access to justice for all has been improved. Despite reforms, the vulnerable groups continue to see constrains on their access to justice.

The research on barriers to access to justice in Serbia must continue to evolve and expand, however the recently conducted surveys should be used by authorities and organizations as a foundation for new approach and practice in improving of access to justice.

Serbia should make courts as a fully accessible service for citizens dispute resolutions. In addition, the program should be developed to improve legal education and increase legal literacy, especially among vulnerable groups.

Although Serbia adopted Law on Free Legal Aid in 2018, findings of the 2021 World Bank survey showed that only five percent of citizens are aware of the existence of the Law and eligibility to use it. Central authorities should conduct awareness raising media campaign to ensure increased knowledge on free legal aid among citizens, especially among vulnerable groups. Additional challenge present improper budgeting of self-government for free legal aid costs, which hinder application of the Law. In the future, focus should be on strengthening local-self government capacities to plan budget sources for legal aid and to provide this specific service.

Furthermore, the authorities should fund access to justice research to promote evidence-based policy making and promoting coherent, integrated and sustained funding strategies.

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