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Policy brief

ACCESS TO THE LABOR MARKET Overview from the position of Roma, Egyptians and Persons with Disabilities

Coalition for Social Changes

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Ekvista

The Roma Scholarship Foundation



CEMI

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Introduction

In Report on Progress of Montenegro, from 2009, it has been stated that Montenegro has made some progress in strengthening the framework for protection of minorities, Montenegro still has to resolve the issue of displaced persons, as well as to work on improvement of their access to economic and social rights. This primarily relates to Roma and Egyptians who are still facing very difficult living conditions and discrimination, especially in access to education, health care, employment and adequate housing. When it comes to persons with disability, it is underlined that special attention should be dedicated to poverty reduction in this group, as well as to adequate implementation of recently passed laws¹.

This brief seeks to analyse employment opportunities for persons with disabilities, Roma and Egyptians in Montenegro, as well as to provide concrete recommendations for improvement of their current employment status.

In May 2006, Montenegro renewed its independency and very quickly obtained full international subjectivity. It has been built as a civic and multicultural country with significant participation of ethnic, religious, and language minorities in structure². Continuous attention has been paid to promotion and protection of human and minority rights and development of institutions and mechanisms. Improvement is especially achieved in the context of accession to the Council of Europe and European integrations process. With certain reserves and exceptions, we can conclude that solid and optimal network of laws and institutions, in area of human rights, social inclusion and anti-discrimination was developed. Key problem remains their implementation and functioning of institutions from which is expected to serve the citizens in transparent and efficient way.

Situation analysis

Main obstacles for employment of the persons with disability are found in inadequate functioning of institutional framework and insufficient motivation of employers to employ persons with disability, while for the RE population, biggest obstacles are language, lack of education and discrimination by employer.

Lack of unified practice of certain institutions is seen the best in the example of two cases: Mugoša Marijana case and Andrija Samardžić case.

1 Report on the progress of Montenegro in 2009, which follows the Commission announcement to the European Parliament and the Council, the Commission of European Communities, Brussels, 14 October 2009. , SEC (2009) 1336

2 According to the census of 2003. Albanians make up 5%, Bosniak Muslims about 12%, Croatians 1.1%, and Roma population about half a percent of total population in Montenegro. About 18% declared to belong to the Islamic religion, 3.54% Catholic and 74.28 orthodox religion. About 5.5% of the population declared as their native language, Albanian 5.26%, 0.5% Roma and Croatian.

Mugoša Marijana, who addressed to this Ministry in relation with breaches of articles 5 and 6 of the Labor Law and article 3 of the Law on movement of blind person with assistance of dog helper. In concrete case, Ministry has failed to provide a written answer, but only verbally announced that it is not competent for this case.

Ministry of Labor and Social Welfare in the case of Andrija Samardžić, user of dog helper, on reaction of Association of Youth with Disabilities of Montenegro³, has responded in written form⁴.

In this letter, the Ministry of Labor and Social Welfare said that fully supports the integration of persons with disabilities in society and that it will insist, in this regard, on full implementation of all legal provisions which regulate the area of discrimination. Also, this Ministry has initiated actions before other institutions in order to resolve this case⁵.

Activities of Ministry of labor and Social Welfare in case of Andrija Samardžić are noteworthy, but at the same time it emphasizes its selective reactions and activities, because the reaction was omitted in the case of Mugoša Marijana. Selective actions of this Ministry indicate to weak control mechanisms, which directly influences the quality of the protection of persons with disabilities, in relation to their rights related to employment and labor.

On the basis of these evidences, we can clearly conclude that in last few years, this Ministry wasn't using adequately its competencies and authorities and it has failed to induce control of the Labor law implementation.

Employed persons with disabilities are facing many problems, and considering a lack of protection of competent ministries, lack of adequate legal advice, as well as length of court procedures, these persons are often discouraged to initiate a court procedure⁶. A small number of these persons is anyways initiating court procedures, but even after positive court decision, rights of these persons still continue to be violated, and Labor Law is not respected in this regard⁷.

After she has proven in the court procedure that she has the right to stay with her dog helper in her office, during entire working day, and this procedure has resulted with positive decision which was not respected, Mugoša Marijana has filed criminal complaint to prosecutor's office⁸.

However, the fact that she has succeeded in court procedure, and that a court decision is

3 Remarks by the Association of Youth with Disabilities MNE to the Ministry of Labour and Social care

4 Letter from the Ministry of Labour and Social care of the 09.11.2010. addressed to the Association of Youth with Disabilities MNE

5 Letter from the Ministry of Labour and Social care of the 09.11.2010. addressed to the Association of Youth with Disabilities MNE

6 Interviews with persons with disabilities

7 Case of Mugoša Marijana- Capital city

8 Penalty charge submitted to ODT- Podgorica, against Capital City and the responsible person in the same, for intentional neglect of court order

not respected, i.e. she cannot exercise granted rights, has negatively influenced the persons with disabilities that are looking for job, making them more insecure and discouraged. Impossibility of exercising granted rights, has also influenced to employed persons with disability, in such manner that they have started to fear that they will lose their job⁹.

In this weak system of protection, with weak institutions and mechanisms for implementation of law, category of persons with disabilities is one of most vulnerable.

In first years of its existence, the institute of **Ombudsman** didn't provide the expected result. In the case of violation of the Labor Law and the Law on movement of blind person with assistance of dog helper, Ombudsman has interpreted the existing Law on movement of blind person with assistance of dog helper in such manner, that he has suggested amendments to existing law.¹⁰ Taking in consideration that recently has happened personal change in concrete institution, some changes have been instantly noticed, and this institution is significantly strengthened. Currently amendments on the Law on Ombudsman are waiting to be adopted. These amendments will expand jurisdictions of Ombudsman, and it is expected that more persons with disabilities will more address to this institution and in the other hand it will have a concrete results.

Through programs of active employment policy and realization of set of measures for professional rehabilitation, EAM in accordance with its competencies, is preparing persons with disabilities for the labor market. Through program of public works, annually 1000 persons with disability is included, and in course of this year 8 employers have requested subventions for employed person with disability. This number of employed persons is quite small, and its increase should be induced through increase of obligatory amount of payment for employers that are not employing disabled persons.

When it comes to protection of the rights of persons with disability, **Labor inspection** as a mechanism of protection of employees, has shown significant weaknesses. In cases of flagrant violations of right to work of disabled persons, concretely in the Mugoša Marijana case, Labor inspection has not reacted, or used possibilities foreseen by the Law¹¹.

However, Labor inspection has reacted in the case of Andrija Samardžić¹², which is very important, but it has shown selective manner of this body functioning and selective implementation of the law.

Huge obstacle for employment of PWD is also **lack of motivation of employers** to offer a working opportunity to these people. From the research, conducted by the Association of Youth with Disabilities, we can conclude that: "A half of interviewees, in role of an employer, would rather employ a person with disability than provide same amount for a special fund. This response was mainly given by poorer population, or unemployed

⁹ Interviews with persons with disabilities

¹⁰ Case of Mugoša Marijana- Capital city

¹¹ Case of Mugoša Marijana - Capital city

¹² Andrija Samardzic case which is ongoing

persons”¹³. Today, in Montenegro there is large number of small and middle range enterprises, created in last 15 years (since beginning of the ownership transformation). These enterprises are mainly established by private capital, as limited liability companies. These companies rarely employ persons with disability, regardless of their qualifications.

In employment of **RE population**, one of the biggest obstacles are **language barriers**. Namely, Roma people usually speak Roma and Albanian languages. Montenegrin Roma people are mostly originating from Kosovo. In the Egyptian ethnic group, next to Montenegrin, Albanian language is most commonly spoken. Out of the total number of Roma students in Montenegro, at least 25% speaks and uses Roma language. In case of secondary school students, that percent amount to 57%, while with Roma who were included in adult educational programs, that percent amounts to 53%¹⁴. Possibility defined by the law, for school and local communities to initiate about 20% of educational program, considering local specifics, in case of Roma and Egyptians, is not functioning in practice. Regarding topics from Roma and Egyptian culture, still there were no initiatives.

The educational structure of Roma population is very unsatisfactory, which puts them in an unfavourable position in society and at the labor market. UNDP research from 2006 shows that the illiteracy rate is set to over 55%, while it is almost eradicated within the rest of the society.

Certain national surveys, conducted mainly by the NGO, are showing that Roma illiteracy rate is much higher, around 70%¹⁵. According to the official data, over 50% of Roma and Egyptian children, school age, are not encompassed by obligatory and complimentary elementary education. Rate of enrollment to elementary schools is about 25% in these groups, while in remaining population, this rate is close to 100% (REF, 2009).

Strategic documents for inclusion of Roma and Egyptians are foreseeing organization of special annual programs of additional education and training of RE persons for demanded labor vacancies, however nothing has been done in this regard by now.

The problem occurs after completion of education and vocational training. Although it is working a lot on professional training of Roma, opportunities for their employment relationship, because of discriminatory employers are still minimal.

NGOs have registered several cases in which employers and citizens are refused service from persons who have completed training programs through the Employment Office when they see that the service is provided by Roma population. These persons usually work in the utility sector (street cleaners and in landfills) maintain hygiene, gather recyclable materials and carry out heavy physical labor. It is about low-paying jobs that others tend

13 Survey Association of Youth with Disabilities MNE 2010

14 FSR Annual Report on the fellowship program, prepared by Andrija Djukanovic, Podgorica, 2009.

15 The risk: Social Vulnerability of Roma population, refugees and internally displaced persons in Montenegro; UNDP, Podgorica, 2006; <http://www.undp.org.me/home/archive/at/Pod%20rizikom.pdf> and data from NGO FSR and the Center for Roma Initiatives.

to avoid, which further affirms prejudices.

Despite the fact that about ten persons of Roma population passed the exam for work in governmental agencies none of them are employed. This indicates that the key decisions from the Strategy for the Advancement of Roma population in employment and labor relations, did not become entrenched in practice. Employment each year of a number of persons in public service, legal, health and other institution in areas where Roma - RAE live in large number is one of the priorities of respective strategies.

Recommendations for improvement of the employment of PWD and RAE

Problem 1: Inadequate monitoring of the Labor Law implementation.

Consequences: Misbalance between the legal regulations regarding the work and employment of people with disabilities and the same in practice. All of this leads to complete or partial impossibility of using rights guaranteed by the law in the field of work, which forces them to seek protection of rights in court. Court proceedings, even if they are of urgent matters in the field of work, are lasting long.

Objective: A transparent relationship between theory and practice in term of policy of employment of persons with disabilities in Montenegro. Transparency of relationships will directly impact the awareness of people with disabilities about the availability of jobs, which will directly affect their activity in seeking an employment.

Measures:

1. Introduction of the body or legal person who will strictly deal with improvement of the status of persons with disabilities and monitor the implementation of legal and strategic documents relating to the employment of the PWD (take the example of Croatia).

Problem 2: Lack of adequate programs for economic empowerment of persons with disabilities, lack of confidence and motivation of people with disabilities.

Consequences: Unwillingness of people with disabilities to start their own business; high rate of unemployment of persons with disabilities.

Objective: The establishment of equal employment opportunities for persons with disabilities and to reduce the unemployment rate of PWD.

Measure: Introduction of a program for training persons with disabilities aimed at strengthening their confidence and acquire of skills related to entrepreneurship and self-employment for persons with disabilities.

Problem 3: Lack of financial stability of persons with disabilities in establishing their own business.

Consequences: The brevity of the initiated activities aimed at establishment of their own business by people with disabilities.

Objective: To provide sustainability of projects related to initiation of a private business by people with disabilities.

Measures:

1. Conclusion of the contract between the Employment Service and banks in Montenegro, in order to introduce facilitating approvals of loans to people with disabilities to start their own business.

2. Creating more favorable conditions for obtaining loans for self-employment for people with disabilities, in sense of more favorable interest rates, longer repayment period and favorable guarantees.

Problem 4: Discrimination and prejudice by employers or entrepreneurs towards persons with disabilities regarding to their ability to work.

Consequences: Unrecognizing people with disabilities as an important resource in the development of small enterprises by the employers; decisions of employers for financial benefits, rather than to employ people with disabilities.

Objective: To create mutual cooperation between employers and people with disabilities for the purpose of mutual profit for both.

Measures:

1. Introduce legislative measures for entrepreneurs in term of favorable tax policy and convenience to obtain a loan for the first five years in the development of a small businesses, if they employ a certain number of persons with disabilities.

2. To introduce increases of the amount of legal obligations for an employer who does not employ a person with a disability.

Problem 5: Lack of exhilaration and apathy of persons with disabilities in terms of job seeking and employment. Programs aimed at exhilaration of the employment of persons with disabilities are short term.

Consequences: High unemployment rate of persons with disabilities.

Objective: Enhance persons with disabilities in sense of their willingness to participate in an active policy of their employment, but also to defend their rights in case of violation of the same.

Measures: Introduction of a special programs to empower, induce and encourage

people with disabilities in employment, which should be continuously implemented right from the beginning of the entrance into the educational process until the end of their education as well as after the moment when they start to enter into labor market - until they find an employment. Special programs for the empowerment and facilitating employment of persons with disabilities must be long term, with provided resources for their implementation. To adopt the Regulation on tax relief for a longer period of time, for employers who hire persons with disabilities.

Problem 6: Lack of information and lack of understanding of the community and the entire social environment on the possibilities of people with disabilities in term of a community development.

Consequences: Discrimination of persons with disabilities by the wider community and social environment, which directly affects their passivity.

Objective: Raising public awareness of capabilities of persons with disabilities in term of their ability to work, progress and success.

Measures: To organize as many as possible campaigns, debates, public meetings and other events, to show examples of positive practice, which will be brought to the attention of the wider community and establish an atmosphere of understanding and support in employment of persons with disabilities. Emphasize of a positive examples from practice.

Problem 7: Inadequate control of the law implementation, strategies and other legal acts related to improvement of the position of persons with disabilities.

Consequences: Misbalance between legislation and practice related to the control of implementation of provisions on employment of persons with disabilities, lack of sanctions in cases of inadequate implementation of the prescribed provisions.

Objective: Establishment of a strong system of control over implementation of legislation related to improvement of the position of persons with disabilities.

Measures: Introduction of bodies that will exclusively deal with the control of the implementation of all legislations related to persons with disabilities, as well as introduction of higher financial penalties if those laws or provisions are not implemented in an adequate and effective way.

Problem 8: Lack of cooperation between state institutions and private sector with international organizations in order to improve the situation of persons with disabilities.

Consequences: Neglect of the strengthening of policies for the improvement of persons with disabilities, and an increase of problems that face members of this population.

Objective: To create sensitive society by increasing awareness on problems of PWD,

in which cooperation between state institutions and private sector with international organization is developed.

Measures: To sign a memorandum on cooperation between state institutions/private sector and international organizations and to initiate as many as possible common projects which will result in evident improvement of the status of persons with disabilities, and consequently to improve their employment and self-employment.

Recommendations for improvement of Roma and Egyptians to access the labor market

Problem 1: Low level of education of RE population

Consequences: Impossibility of employment of these persons

Objective: Increased level of education of RE at all levels

Measures:

1. To make programs of scholarships for Roma and Egyptians' students at all levels of education continuous and with no monthly fine.
2. To engage supporters from their own community with a good knowledge of language, local conditions, developed skills and acquired skills.
3. To increase support for functional literacy programs and to fund the same population from public sources.
4. To introduce motivational scholarships and information, after professional training, such as free driver trainings.
5. To introduce mentors in working with successful students, two to three months after completion of training for a specific simple interest.
6. To adopt a new standards of jobs - assistant and organizer of social inclusion - and to organize training programs for them to further strengthen opportunities for more permanent and better employment of Roma and Egyptian in units of local government, state agencies and public institutions in the field of education, health and social protection.

Problem2: Lack of activities of institutions in improving the access to the labor market for RE population

Consequences: Low level of exercise of strategic goals and increased unemployment rate of RE population

Objective: Increased efforts of institutional and non-institutional actors to increase the

employment rate of RE population.

Measure:

1. To improve work and strengthen capacities of the parliamentary committee for human rights, gender equality, education, science, culture and sports as well as the health, labor and social care for more intensive communication with the civil society, thematic debates and hearings and for periodic reporting on human rights and social policy in Montenegro.

2. To further develop determination, knowledge and skills of the NGO sector and their representatives at official bodies for the tasks of the monitoring of the process of inclusion and advocacy by relevant institutions in order to more efficient application of national and local policies on RE population.

Unemployment is one of the serious problems facing the population of Montenegro, in particular vulnerable population groups, such as persons with disabilities, Roma and Egyptians. The recommendations detailed in this brief, if implemented, could contribute to reduce unemployment in these groups and contribute to improvement of their overall socio-economic status.

About organisations

Coalition for Social Changes was established on the 15th of December 2009, among ten leading organizations of civil society in the area of health, social protection, labor market and education: The Monitoring Center, AD Center Equista, Center for Civic Education, Juventas, CAZAS, Institute for Social inclusion, Pedagogical Center of Montenegro, Montenegrin Association of Youth with Disabilities, Association of parents of Children with Disabilities „Sunbeam“. The Coalition is open for who all interested organizations of civil society, dealing with problems of poverty and social exclusion, can freely join. Main aim of forming of the Coalition is contribution to strengthening of advocacy capacities and watchdog functions of civil society organizations in Montenegro, in order to influence creation of policies and laws in the area of education, labor market, social and children's protection.

Juventas is a non-profit organization established on January 29th, 1996 in Podgorica. Juventas envisages Montenegro as a stable, democratic society in which young people can freely express their potentials and create their future in accordance to them. Mission of Juventas is to animate the larger number of people to be active participants in the process of decision making in creating and exercising their future. Some of the goals of Juventas are: to stimulate critical thinking and develop a culture of dialogue, promotion of culture, peace, tolerance and peaceful conflict resolution, promotion of human rights, healthy lifestyles, and fight against drug abuse. More information at www.juventas.co.me

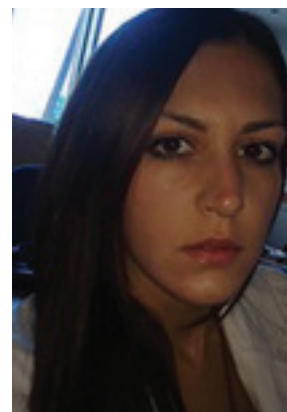
AD Center „EKVISTA“ was established on the 29th of May 2009, in Podgorica at the premises of the Association of Youth with Disabilities in Montenegro. Vision of AD Center is Montenegro, as a society in which every single individual has freely realized their human rights and freedom. The mission of AD Center is a complete realization of

Roma Scholarship Foundation (RSF) was established in the beginning of 2005, as a specialized organization for the various challenges of social inclusion of Roma and Egyptians. RSF tasks are: promoting the importance of education for long-term poverty reduction, scholarship support for Roma and Egyptians who attend elementary school, classes in high schools and universities in Montenegro, scholarship support for Roma and Egyptians in various educational processes that ensure or enhance their integration into mainstream formal education, culture, employment, or in society in general, permanent support and strengthen the capacity of scholarship holders / activists, the empowerment of Roma and Egyptian households and families, parents work with user groups from primary and secondary schools, research and documentation of human rights, the role of informative, educational and the Centre for professional support, initiation, participation and support to all activities that contribute better economic, social and cultural status of Roma and Egyptian communities, advocacy towards decision makers, active monitoring and support the European integration of Montenegro and the watch dog role in the implementation policy and measurement of effects of measures undertaken. More about

the organization: www.isi-mne.org

About authors

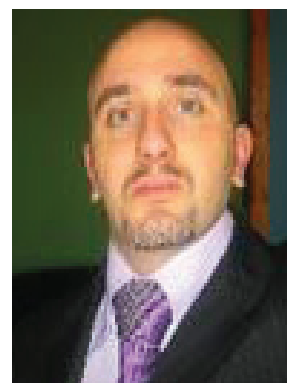
Marija Ruzic, coordinator of the youth program in Juventas, was born on the 3th of July, 1985 in Niksic. Elementary studies has completed at the Faculty of Political Science, Department Social work and social policy. Currently is finishing master on Euro-Atlantic Integrations, at the same faculty. Speaks English, Russian and Italian language.



Daliborka Knezevic, one of the founders of the Center for Anti-discrimination Ekvista, was born on the 21st of February, 1976 in Bijelo Polje. Graduated from the Faculty of Law, University of Montenegro, postgraduated studies in the field of women's and peace education and currently is finishing master in Criminal Law.

Since 2006, practices law. She is a regular participant at international and national conferences in the area of law. As a certified trainer in the field of human rights has had several individual lectures.

Aleksandar Sasa Zekovic (1974), researcher of human rights in Montenegro. He held master's degree on "Political criteria in the process of European integration" at the University of Montenegro. He is a student of doctoral studies at the Faculty of Political Science. Since 2005. until October 2010. he was a member of the Council for Civilian Oversight of Police, a collective ombudsman on behalf of the citizens of Montenegro controls the work and the application of police authority. In March 2011 the Parliament of Montenegro confirmed him for that function again. In the Center for Development of NGOs (www.crnvo.me) since 2001. he is engaged as a trainer and consultant in the field of organizational development. As a consultant, he worked to strengthen the capacity of the Office for Sustainable Development of Montenegro, Department of Gender Equality and the Ministry of Human and Minority Rights. He



was also trainer of the International group for Minority Rights from London (MRG). He is founder of the School of Human and Minority Rights of the Center for Civic Education, a comprehensive program of practical education on human rights (www.cce-cgo.org). He was director of the Student Cultural Center, executive director of Civic House, executive director of the Club NGO town of Cetinje, the head office and Research Fund for Humanitarian Law in Montenegro, the Regional Organization for Protection of Human Rights, based in Belgrade, program director of the Center for Civic Education and executive director of the Roma Scholarship Foundation.

He was also President of the Executive Committee of the Movement for nazification, Commission member for the drafting of the Low on Minority Rights and Freedoms, he was also member of team for creation of Alternative Report on implementation of the Framework Convention of the Council of Europe for the protection of national minorities in Serbia and Montenegro, member of the Group for Regional and Rural Development to create Development Strategy of Montenegro, member of the team to write the first national report on implementation of the Framework Convention of the Council of Europe in Montenegro, a member of the Project Board of UNDP and the Government of Montenegro for gender equality. He is a member of the Initiative for RECOM, Centre for Peace and women's education "Anima" from Kotor and the Board of Igmane initiative in Montenegro. He was granted "Liberation Cetinje". He is the author of numerous articles on human and minority rights and the social economy. He is also the author or coauthor of books: "Conscientious objection and civilian service in Montenegro", "Minority rights", "Civic Textbook", "21 stories about democracy", "Human and Minority Rights in Practice", "Civil control of police Montenegro", "Meet the European Union", "The political criteria in the process of accession of Montenegro to the European Union", "Analysis of Montenegro's curricula and textbooks in terms of LGBT phenomenon", "Contributions of the social inclusion of Roma in Montenegro", "Transgender in Montenegro", "Social inclusion of ethnic groups in the Western Balkans through education and training: examples of good practice", "Discrimination and unfair treatment of LGBT people: a case study of Article 12 (1) Family Law of Montenegro", and two approved school textbooks, "European Union" (primary school) and "European integration" (high school). He is author and coauthor of numerous national and international reports on human rights.

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**Access to the Labor Market
Overview from the position of Roma, Egyptians and Persons
with Disabilities**