



Omladinski kulturni centar
Juventas



European Union



Delegation to Montenegro

Policy study

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

Coalition for Social Changes

Juventas

Ekvista

The Roma Scholarship Foundation



CEMI

The project is funded by the European Union and managed by the EU Delegation to Montenegro. The project is implemented by the Monitoring Center CEMI.

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Publisher:

Centar za monitoring CEMI
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Printed by Studio Mouse, Podgorica



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Contents:

Introduction	6
I General terms and significance of the topic	7
II Legislative framework which regulates employment of PWD, Roma and Egyptians in Montenegro.....	8
2.1 Internationally binding documents	15
III Institutional framework	16
IV Strategic framework.....	20
V Analysis of the current situation	23
5.1 Access of Persons with Disabilities to the Labor Market	23
5.1.1 Functioning of institutions	24
5.1.2 Lack of employers' motivation to employ PWD.....	27
5.2 The Labor market access for the Roma and Egyptians in Montenegro.....	29
5.2.1 Language barriers	30
5.2.2 Low level of education of Roma and Egyptians.....	31
5.2.3 Low living standards.....	33

5.2.4 The absence of legal aid	34
5.2.5 Functioning of institutions.....	35
5.2.6 Media popularization.....	35
5.2.8 Support programs.....	37
VI Experiences from the region	37
6.1 Serbia.....	37
6.1.1 Current situation of persons with disabilities in Serbia	37
6.1.2 Roma in Republic of Serbia.....	40
6.2 Bosnia and Herzegovina.....	44
6.2.1 Policy of employment of persons with disability in Bosnia and Herzegovina	44
6.2.2 Roma in Republic of Bosnia and Herzegovina.....	45
6.3 Croatia	47
6.3.1 Situation of persons with disabilities in Croatia.....	47
6.3.2 Position and employment of Roma in Croatia	50
VII Conclusions and Recommendations	50
7.1 Conclusions.....	53
7.2 Recommendations.....	50
About organisations	59
About authors.....	61
References.....	63

Introduction

Within the project “Strengthening CSO capacities in fight against poverty and social exclusion”, supported by the Delegation of the European Union in Montenegro, implemented by CEMI in cooperation with Juventas and Cazas, ten CSO’s dealing with issues in areas of health, education, social inclusion and human rights in general, have formed the Coalition for Social Changes. Coalition for Social Changes has created policy proposals from four areas of the PASIS through careful monitoring of the Strategy implementation, field research, and interviews with relevant institutions. Within this project the following policy study was created „Access to the Labor Market – Overview from the Position of Roma, Egyptians and Persons with Disabilities“ written by representatives of NGO Juventas, Ekvista and Institute for Social Inclusion. This study tackles the area of (un)employment of Roma, Egyptians and persons with disability in Montenegro.

The aim of this study is enhancement of the position of persons with disability, Roma and Egyptians in Montenegro, in regards to their employment opportunities.

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 laws.¹

This study is structured in seven parts:

First part consists out of definitions of main terms used in this study, related to employment and social protection of persons with disability, Roma and Egyptians.

Second part contains an overview of the legal framework in Montenegro that regulates employment policy of RE and persons with disability, as well as the overview of other relevant international and national document on this topic

Third part offers delineation of relevant institutions in Montenegro, engaged on improvement of the social security system and employment of persons with disability, Roma and Egyptians, with detailed description of their competences, responsibilities and fields of work.

Fourth part represents strategic framework, which is one of the substantial parts of

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

the study, due to the fact that Montenegro in the past several years has adopted a row of strategies aimed at improvement of the position of persons with disabilities, Roma and Egyptians and their comprehensive social inclusion.

Fifth part represents analysis of the current situation in Montenegro, in regards to protection of persons with disabilities, Roma and Egyptians, and therefore their employment as well. This analysis is supported by relevant examples from practice, on the basis of which could be identified exact problems with which this part of the population is facing in practice.

Part six presents a regional overview of the situation in the area of employment of persons with disabilities, Roma and Egyptians, with the aim to make a comparison with the situation in Montenegro and discovering positive applicable practices in promotion of employment of these groups in our country. Examples of the Republic of Serbia, Bosnia and Herzegovina and Republic of Croatia were presented.

The seventh and last part of the study contains conclusions and recommendations through detailed analysis of previous parts, with the aim of promotion of a complete position of persons with disabilities, Roma and Egyptians in Montenegro, as well as an increase of possibilities for their employment and creation of equal opportunities to participate in development of the society in which they live.

Policy study is accompanied with results of the CATI² research, on unemployed persons in Montenegro, conducted by the Monitoring Center, July 2010.

² CATI - Computer assisted telephone interviewing

I General terms and significance of the topic

In the study we will use different terms, which need to be defined in order to delineate the area treated by this study. Terms “market” and “labor market” have many different definitions, but for needs of this study we have chosen definitions by Dragičević i Vjekoslav Par, for their coverage and relevance for the topic treated.

Market complexity of relations between supply and demand that, in a certain place and certain time, affect the sale of certain goods, as well as the set of institutions, areas and facilities that allow organized or permanent contact between buyers and sellers.³

Labor market is the market where supply and demand are ensuring employment of workers in some society, and setting basic cost of the labor for certain work. It includes organizations and institutions which are offering employment, workers who are seeking employment and methods for connecting potential employees with potential sources of work and employment.⁴

Unemployment is set, according to definition of the International Labor Organization, as occurrence which encompasses all individuals older than an age limit, set for the measuring of an economically active population, who have during referent timeframe been without a job, but during this period were in each moment at disposal for a job and searched for it (taking certain steps with the aim of finding job).

Unemployment rate is the relation between the number of unemployed and disposable resources of labor force, in total, expressed in percentage.

The term **disability** comes from interactions of persons with impairments with barriers in their environment and barriers reflected in attitudes of the community and impede full and effective participation of persons with disabilities in society on the basis of equality with other members of that society, while term **persons with disabilities** identifies persons with inherited physical, sensory, intellectual or emotional impairments who, due to social or other obstacles don't have ability or have decreased ability to be included into societal activities at the same level with others, whether if these activities could be done with technical assistance or support services.⁵

Discrimination is every unjustified, legal or factual, direct or indirect differentiation or unequal treatment, i.e. lack of treatment of a person or group of persons with regard to other persons, as well as exclusion, limitation, or giving preference to a person in relation to other persons, based on race, color of skin, nationality, social or ethnical background, relation to minority population or minority national community, language, religion or belief, political or other opinion, sex, sexual orientation, health condition, disability, age, wealth, family condition, group or party membership, or any other kind of organization,
3 „Basics of Marketing” prof. Dr. Bozo Mihajlovic, CPI Podgorica, 2007 - according to Dragicevic
4 „Basics of Marketing” prof. Dr. Bozo Mihajlovic, CPI Podgorica, 2007 - according to Vjekoslav Paru
5 UN Convention on the position of people with disabilities, according to V. Simovic ‘Comparative analysis of strategies for persons with disabilities, 2007

as well as other personal feature.⁶

Discrimination on the basis of disability is each differentiation, exclusion, or limitation on the basis of disability, aim or consequence of which is limitation or denial of recognition, enjoyment or implementation of all human rights and fundamental freedoms in areas of politics, economy, social, cultural and civic rights, as well as in any other area.⁷

Social protection encompasses a system of designed and organized economic, social, ideological, political, legal, institutionalized, and other measures and activities which are providing stable and comfortable living conditions and work of individuals, families and other social groups; possibilities of advancement in life and work and prevention of different causes and conditions of man's alienation, exploitation, frustration and , osujećenosti i vulnerabilities.⁸

II Legislative framework which regulates employment of PWD, Roma and Egyptians in Montenegro

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 structure.⁹ 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.

A key problem is their implementation and functioning of institutions from which is expected to transparently and efficiently serve to the needs of citizens.

The Constitution of Montenegro from 2007 decidedly prohibits discrimination and provides for the equality of all citizens before the law regardless of any special or personal characteristic or feature. Rights and freedoms of each citizen are enjoyed on the basis of the Constitution and confirmed international agreements.¹⁰

The constitution of Montenegro guarantees right to employment, to free choice of profession and to human and righteous conditions of work, as well as protection during

6 Anti-Discrimination Law (Official Gazette of Montenegro, No46/10)

7 Mr. Vesna Simovic and Miroslav Djukic - "Comparative Analysis of Strategies for People with Disabilities, 2007.

8 M. Milosavljevic 1984:20. according to Dr. Drenka Vukovic: "Social security", Belgrade, 2005.

9 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.

10 The Constitution of Montenegro

unemployment.¹¹

Persons with disabilities are enjoying special protection at work, and article 6 of the Constitution of Montenegro has provided right to health protection and commitment of the state to provide from public funds health protection for children, pregnant women, old persons and persons with disability if this right is not provided by any other mean.¹²The Constitution guarantees to all minorities equality before the Law and equal legal protection. Any kind of discrimination on the basis of ethnic origin is prohibited.

Labor Law (Official Gazette of Montenegro, No 49/08) prohibits indirect and direct discrimination of persons who are seeking employment, as well as employees themselves, based on gender, birth, language, race, religion, color of the skin, age, pregnancy, health condition i.e. disability, family connections, sexual orientation, political or other affiliation, social background, wealth, membership in political and syndical organizations or any other personal feature.¹³

Labor Law also defines indirect and direct discrimination. In accordance with this law, direct discrimination is: every activity, caused by some of the reasons for differentiation, by which person who seeks employment, or employee, is put in disadvantage – compared to other persons in the same or similar situation. Indirect discrimination occurs when certain provision, criteria or practice is set in order to put into disadvantage person who seeks employment, or employee, compared to other persons in the same or similar situation, for particular feature, status, belief or conviction.¹⁴

Labor Law defines discrimination on several bases and strictly bans it in relation to:

- 1) Conditions of employment and candidate choice for implementation of certain work;
- 2) Conditions of work and all rights from field of employment;
- 3) Education, training and specialization
- 4) Promotion in work;
- 5) Abolition of employment contract.

Provisions of the contract which are discriminative are invalid by default. Making distinctions, exclusion or preferment in relation to certain work, are not considered as discrimination, when the work is executed in such conditions that, characteristics related with bases of this law are representing real and decisive conditions for execution of this work and that its purpose is justified. Provision of the law, collective contract and contract of employment related to special protection and assistance to certain categories of employees, especially those on protection of persons with disabilities, are not considered as discrimination, since this category of persons, according to provisions of the Labor Law, enjoys special protection (art. 11, art. 103 of the Labor Law)

¹¹ The Constitution of Montenegro

¹² The Constitution of Montenegro

¹³ Labor Law (Official Gazette of Montenegro, No49/08 od 15. 8. 2008.)

¹⁴ Labor Law (Official Gazette of Montenegro, No49/08 od 15. 8. 2008.)

Person who seeks employment, but employee as well, in cases of discrimination, can initiate procedure relevant court (art.10 of Labor Law).¹⁵

This Law sets that employer is obliged to place an employee with disabilities to jobs that match his remaining work capacity and level of education, in accordance with the act on systematization. In case that employee with disabilities can't be placed in that way, employer is obliged to provide him/her other rights, in accordance with the law which regulates vocational training of the PWD and through collective contract. In case that employee with disabilities can't be placed, or other right could be provided for him, employer may declare that there is no need for work of this person (art.107)¹⁶, while this person has the right on severance pay in accordance with the Labor Law.

Parent, foster parent, or person to whom a child with disabilities was entrusted by a competent authority, i.e. person who nurses a person with complex disability, has the right to work half of the working day in accordance with specific regulations.

Current Labor Law has increased protection of all employees and that fact directly influences rights of persons with disabilities, which is best seen from following solutions :

- Obligation of contract conclusion in written form,
- Social insurance obligation,
- Overtime and night work regulations,
- Displacement to another working place,
- Expenses for education, vocational education and training are borne by employer,
- Rights of employees in case of change of employer,
- Protection of employees' rights in bankruptcy proceedings.

Protection of employees that current Labor Law provides for PWD should be constantly advanced.

Penalty Code of Montenegro (Official Gazette of Montenegro, No71/03) has defined certain breaches of the Labor Law as felonies, and set that those who knowingly fails to comply with laws or regulations, collective agreements and other legal acts on labor rights and special protection of disabled persons at work and denies, or restricts, a right that belongs to them - shall be sanctioned. For breach of art 224 of the Penalty Law, was envisaged a fine or imprisonment up to two years of duration.¹⁷

Violation of equality in employment is regulated by the article 225 of the Penalty Code, setting that those who knowingly fail to comply with laws of regulations and denies, or restricts, citizens' right to free employment at the territory of Montenegro under equal conditions, will be fined, or imprisoned for the period up to one year.¹⁸

¹⁵ Labor Law (Official Gazette of Montenegro, No49/08 od 15. 8. 2008.)

¹⁶ Labor Law (Official Gazette of Montenegro, No49/08 od 15. 8. 2008.)

¹⁷ Penalty Code of the Republic of Montenegro (Official Gazette of Montenegro, No71/03)

¹⁸ Penalty Code of the Republic of Montenegro (Official Gazette of Montenegro, No71/03)

Anti-Discrimination Law (Official Gazette of Montenegro, No46/10) prohibits each form of discrimination, and discrimination is defined as every unjustified, legal or factual, direct or indirect differentiation or unequal treatment, i.e. lack of treatment of a person or group of persons with regard to other persons, as well as exclusion, limitation, or giving preference to a person in relation to other persons, based on race, color of skin, nationality, social or ethnical background, relation to minority population or minority national community, language, religion or belief, political or other opinion, sex, sexual orientation, health condition, disability, age, wealth, family condition, group or party membership, or any other kind of organization, as well as other personal feature.¹⁹

In accordance with this law, direct discrimination is: every activity, caused by some of the reasons for differentiation, by which person who seeks employment, or employee, is put in disadvantage – compared to other persons in the same or similar situation.

Indirect discrimination occurs when certain provision, criteria or practice is set in order to put into disadvantage person who seeks employment, or employee, compared to other persons in the same or similar situation, for particular feature, status, belief or conviction.

Encouragement or giving instruction to put certain person or group of persons in disadvantage, on the basis of aforementioned characteristics, is also considered discrimination.

Under the discrimination against persons with disabilities, Anti- Discrimination Law considers, in particular: disabling or impeding access to health care, or denial of rights to health care, regular medical treatment and medicines, rehabilitation services and measures, denial of right to education, and training; denial of the right to work and employment rights in accordance with the needs of the person; denial of the right to marriage, family making and other rights in the field of marital and family relations (Article 18).

According to the Anti-Discrimination Law, inaccessibility of objects and spaces in public use to persons with decreased mobility and to PWD, i.e. preventing, restricting or hindering of the use of these objects, in a way which is not disproportional burden for physical or legal entity obliged to provide this, is also considered discrimination, according to the Anti-Discrimination Law.

Discrimination of persons with disability exists also when special measures are not undertaken for elimination of barriers, i.e. unequal position in which these persons are put.

Provisions of this Law, which are regulating discrimination in the area of work (Article 16) are setting that, except of the cases of discrimination defined in the Labor Law, as discrimination is also considered: payment of unequal wages, i.e. remuneration for work of equal value to a person or group of persons, on the basis of characteristics indicated in this Law.

¹⁹ Anti-discrimination law (Official Gazette of Montenegro, No46/10)

Right to protection of discrimination is granted to persons who are persons holding temporary and occasional jobs or those engaged by special agreement, students, pupils and any other entities who are engaged in the work by any other grounds.

Making distinctions, exclusion or preferment in relation to certain work, are not considered as discrimination, when the work is executed in such conditions that, characteristics related with bases of this law are representing real and decisive conditions for execution of this work and that its purpose is justified.

Law on Movement of Persons with Disabilities with assistance of the dog helper (Official Gazette of Montenegro, No 18/08)

This Law regulates right of persons with disabilities to use vehicles in road, rail, maritime and air transport, has free access and stay in public places and free access and stay at the working place. A person that enjoys right from this Law is blind, deaf or person in the wheelchair and trained to move with dog helper.

A disabled person has the right to use vehicles in road, rail, maritime and air transport, including stay at all spaces foreseen for passengers.

A disabled person with a dog helper has the right to access and stay freely at the public spaces, such as: offices, hotels, restaurants, banks, post offices, theatres, sports objects, markets, schools faculties, etc. A disabled person with a dog helper, has the right of access and stay in health institutions, according to conditions prescribed by the government authority competent for health care.

Law decidedly sets that employed disabled person with a dog helper, has the right of access and stay at working place (Article 5).²⁰

The Law on Pension and Disability Insurance (Official Gazette of Montenegro, No 54/03)

Disability occurs when the insured completely loses working ability due to changes in his medical condition, which can't be eliminated by medical treatment or rehabilitation. Disability occurs also when the insured partially loses working ability, up to 75%, due to changes in his medical condition, which can't be eliminated by medical treatment or rehabilitation. Disability can be caused by injury, occupational diseases, injuries or illnesses outside of work. Pension and Disability Insurance Fund sets obligatory control examination of the insured person, three years from the date of disability determination latest, except in cases prescribed by the General Act on PDI Fund and this Law.²¹

Insured person, who suffers complete loss of working ability, is entitled to full disability pension and insured who suffers partial loss of the working ability, is entitled to partial

²⁰ Law on the movement of persons with disabilities with the help of a dog helper (,Official Gazette of Montenegro, no.18/08

²¹ Law on retirement and disability insurance («Official Gazette of Montenegro», no. 54/03)

disability pension. A disabled worker, in sense of this Law is insured who, based on his disability is entitled to disability pension (Article 32), while insured person, who has loss of the full working time.

Injury at work, according to this Law, is an injury which occur associated to performing the work, when performing work that is not assigned, but performed in interest of employer or at regular way from home to work place and vice versa, or at the business trip.

This Law also recognizes, professional diseases, incurred by direct influence of processes and conditions of work, i.e. neposrednim uticajem procesa i uslova, i.e. works performed by the insured person.

Professional diseases are determined by the government authority competent for pension and disability insurance, according to previously acquired opinion of the government authority competent for health care, and insured who had suffered complete loss of working ability is entitled to disability pension:

- 1) if disability is caused by the injury at work, regardless to length of pension years;
- 2) if disability is caused by the injury outside of work or illness, provided that loss of the working ability occurred before retirement age and that the person had pension years, which cover at least one third of his working life.

Insured person whose disability occurred through injury outside of work, or disease, before age of 30 is entitled to disability pension:

- 1) when disability occurred before age of 20 –regardless to insurance years;
- 2) when disability occurred from age of 20 to age 30, if he has at least one year of insurance years, if it is more favorable for insured person²².

The Law on professional rehabilitation and employment of persons with disability (Official Gazette of Montenegro, No 49/08)

The aim of the Law on professional rehabilitation and employment of persons with disabilities is to create conditions for employment of persons with disability under general and specific conditions.

Employment under general conditions relates to employment at the open labor market, and employment under specific conditions relates to employment in specific organizations.

After passing of this Law, Professional Rehabilitation Fund and its Council were established.

The law contains provisions which should create more opportunities for persons with disability to enter into a working relationship.

Subventions should motivate employers to employ persons with disabilities and system

²² The Law on retirement and disability insurance (Official Gazette of Montenegro, no. 54/03)

of quotas should grant necessary working places. Employers who fail to comply with Law, should pay extra contributions. For an employer who doesn't hire a person with disability is foreseen a legal obligation - payment of contributions into Special Professional Rehabilitation Fund, for each person with disability that he should have employed, in accordance with the Law.

The contribution rate is 20% of the average wage in Montenegro compared to the year preceding the payment of contributions. Fund resources are used for the development and improvement of vocational rehabilitation and employment of persons with disabilities, co-financing of specific organizations, the payment of subsidies for employers who hire persons with disabilities, co-financing programs for the maintenance of employment of persons with disabilities, as well as to fund other activities related to professional rehabilitation of persons with disabilities.

In case that person with disability, due to medical or working conditions, can't be employed at the open labor market, a possibility of employment in working centers, sheltered workshops and trade facilities was foreseen. Employment in the working center is envisaged for persons with complex disabilities, who are not achieving performance greater than 50% compared to the persons of the same age, qualifications, and under the same working conditions. In these centers are performed working therapeutic activities within rehabilitation of persons with disabilities, who have service users' status.

The Act on peaceful resolution of work related litigations

Labor Law envisages a possibility of resolution of work related litigations, with assistance of arbiter or conciliator. The possibility of arbiter engagement is foreseen in case of individual litigation, which has occurred between employer and employee on the basis of work. Engagement of conciliator is foreseen for collective litigations, i.e. litigations which occur in process of closing, enforcement, amendments and alterations of collective contracts, exercising right to strike and syndical organization

Montenegrin legislation on freedoms and rights of minorities are at the level of international standards of human rights protection. The Law on rights and freedoms of minorities is incurring integration of all ethnic groups, including Roma and Egyptians. This law grants constitution of national councils to minorities, which will represent a concrete minority. Montenegro has accessed to Framework Convention on Protection of National Minorities and committed to comprehensive improvement of conditions for maintenance and development of minorities and preserving of their identity: religion, language, tradition and cultural heritage. The law has enabled a constitution of Minority Fund, that represents significant resource for minority inclusion.

The law on employment induces equality in access to employment, regardless of nation, race, language, religion, education, social background, wealth or other characteristics. Law on social and children's protection envisages equality in access to social and health

protection, regardless to their nationality. Harassment at work or “mobbing” is regulated by the Anti-Discrimination Law, while the Labor Law contains basic provisions by which the employer is committed to protect the dignity of employees in work realization.

It is extremely important, especially for the significant number of displaced Roma and Egyptians from Kosovo, that the right to protection from discrimination belongs to all physical and legal entities in Montenegro. Recognized forms of discrimination are mobbing, segregation, discrimination in providing public services, discrimination based on health conditions, discrimination based on age, politic discrimination, and discrimination in education, training and guidance, discrimination in area of employment, discrimination on the basis of religion, as well as discrimination of persons with disabilities. In 2010 necessary activities were undertaken in order to improve capacities of Ombudsman for fight discrimination. Judicial protection is also provided, and anti-discrimination procedure is marked as urgent in court proceedings.

Education in Montenegro is based on principles of democracy, respect of human and civil rights, and grants equal opportunities for all. Educational process is regulated through a set of laws, which are determining a level of qualifications, conceding classification, comparison, development and understanding of qualifications, interconnectivity and a clear overview of a qualifications system. Minorities have the right to freely use their language and letter, right to education and information on their language.

A set of laws in the area of education and guidance grants accessibility and equality of all in education and guidance and nourishing of tolerance, coexistence, and inducement of inclusion were set as imperative. Measures of affirmative action towards representatives of the Roma and Egyptian community exist at the state University. Educational plans and textbooks for elementary and secondary schools have been innovated in the last three years, and significantly improved. Laws on rights and freedoms of minorities grants participation of national minority councils in policies regarding appointment of public educational institutions' directors and determination of educational plans and programs.

In accordance with Law on Employment and enforcing of unemployment insurance (Official Gazette of Montenegro no. 26/10) , unemployed persons are equal in their rights, regardless to their nationality, race, gender, religion, political or other affiliation, education, social background, wealth and other personal feature.

2.1 Internationally binding documents

Convention of the UN on the Rights of Persons with Disability

Recognizing highly uneven and unequal treatment of persons with disabilities, in 2006 was brought the UN Convention on the Rights of Persons with Disabilities. Taken in consideration reasons for its adoption, the main principle of the Convention is non discrimination in the society. It represents a sum of all documents dealing with protection of PWD right, therefore it represents good protection instrument. However, although

Montenegro has ratified this Convention in short notice, from its implementation can be seen that our state does not have capacities for its full and efficient implementation.²³

In the article 27 is stated that signatories to the Convention are recognizing right of persons with disability to work, based on their equality with others. This includes the possibility of earning money for living, by doing a freely chosen work, or work accepted at the labor market, in the open, inclusive and accessible working environment.²⁴

Also, the Convention of the Un Persons with Disability grants employment in public sector and offers clear instructions to signatories, that they should motivate employers to hire persons with disability.

Standard Rules for Equalization of Possibilities of Persons with Disabilities

Standard Rules for Equalization of Possibilities of Persons with Disabilities, adopted in 1993 in the UN, are representing important document in this area, although these rules are not legally binding.

European Convention for Protection of Human Rights and Elementary Freedoms and Protocol 12 to Convention for protection of the Human Rights and Elementary Freedoms

Protocol 12 in article 1 defines general prohibition of discrimination and sets that each right envisaged by the Law will be granted without discrimination on any basis e.g. gender, race, language, religion, political or other affiliation, national or social background, wealth, birth or any other status.²⁵

III Institutional framework

The Parliament of Montenegro - has the key role in whole process of inclusion and European integrations. Among others, following parliamentary Committees are relevant for this topic: Committee for Human Rights and Freedoms, Committee for Gender Equality, Committee for Education, Science, Culture and Sports and Committee for Healthcare, Labor and Social Protection.

Ministry of Labor and Social Welfare performs management which relate to: labor, incomes and other working based remunerations, employment and monitoring of education of adults for labor market, proposing, negotiations, closing and implementation of agreements and other work related contracts, implementation of the EU directives and requirements, protection at work, pension and disability insurance for all forms of work, social protection, children protection, family protection and protection of children with

²³ Final verdict in the case of Mugoša Marijana employed in the Assembly of the Capital

²⁴ The UN Convention on the rights of persons with disabilities

²⁵ The European Convention on Human Rights and Fundamental Freedoms and Protocol 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms

disabilities, protection of old persons, protection of refugees and displaced persons, including creation and implementation of strategic documents. Labor market and the Employment sector are performing works of monitoring and enhancement of the employment policy, stimulation, and support to labor market policy, education of adults, national qualifications' system, and certificate system and accordingly participates in improvement of legal system and regulations. It participates in the creation, implementation, monitoring, control and reporting of National policy for employment and labor market development, National plan of employment and programs of active policy of employment in accordance with directions of European Strategy of employment. MLSW has functional cooperation with Employment Agency of Montenegro.

Labor Inspectorate

In accordance with the Labor Law, employees can protect their rights with competent Labor Inspectorate. If the inspector determines that right of the employee was violated by the dismissal, and the employee has initiated court procedure, inspector will, on initiative of the employee, delay dismissal until the final decision of the court. Employees can also apply the same initiative within 15 days after initiation of a labor dispute.

A Labor Inspector has to pass decision of dismissal delay within 15 days of employee's initiative if foreseen conditions were met.

Employment Agency of Montenegro (EAM) is public service dedicated to the assistance of unemployed persons for quality inclusion at the labor market. Special intention of EAM work is an increase of employment for sensitive categories of unemployed persons, who have difficulties in job finding (marginalized groups). Basic functions of EAM are: labor market research, mediation in employment and work engagement, advising and informing of employer and unemployed persons on employment opportunities, record keeping in the area of employment, unemployment based insurance providing, organization of education and training, professional direction, information and counseling, preparation and implementation of active employment policy. EAM dedicates significant attention to prevention of discrimination at the labor market.

Social Council of Montenegro (SC) constitutional institution composed of representatives government officials, employers and syndicate. The mission and aim of SC are development of social dialogue on important issues for improvement of economic and social position of employers and employees. The model of work of Montenegrin SC respects the European concept of interaction among economic policy, employment policy and social policy. It is an important institution of social cohesion, which should induce social dialogue and partnership, as well as to contribute to a consensus on social and employment policies.

Syndicate - In the society, two syndical centrals are visible- Union of free syndicates and Association of independent syndicates. Syndicate participates in passing strategic

documents, which regulate the area of professional education.

Employers Union of Montenegro (EUM) is an umbrella organization of employers and entrepreneurs who earn over 85% of GDP and employs 65% of the employees of the economy. It is dedicated to the development of social dialogue, advocating and protection of employers' and entrepreneurs' interests level.

Chamber of Commerce of Montenegro (CCM) is dedicated to creation of the most favorable environment for business, protection of members' interests and Montenegrin economy in whole.

Ministry of Education and Sports is responsible for defining state policy in education, administration of public educational institutions, preparation of legal acts in educational domain, implementation of laws and other regulations related to preschool, elementary, secondary, tertiary education and education of adults. In order to decentralize educational system, new institutions were formed: **Center for Vocational Training, Bureau for Education and National Council for Education.**

Center for Vocational Training (CVT) is central institution for development of vocational training and education of adults in Montenegro. It is an institution with developed capacities for rights of minority marginalized groups. CVT creates programs of literacy and education of adults, sets professional standards and training programs.

Educational network – encompasses public institutions of preschool, elementary, secondary education and education of adults.

Adult education organizers are private and public providers of different educational services.

Ministry for Human and Minorities Rights (MHMR) monitors, studies and protects human and minority rights in accordance with constitution and international documents. Monitors the implementation of international mechanisms ratified in Montenegro. The Government has appointed a National Coordinator responsible for implementation of Action Plan "Decade of Roma Inclusion". Since 2009, National coordinator is positioned within Ministry for Human and Minority Rights, which provides administrative support to the work of the Commission of the Government of Montenegro for monitoring of implementation of the Strategy for Improvement of the RAE position in Montenegro 2008-2012. Department of Ministry, for gender equality contributes to creation of the environment for creation, initiation, implementation and promotion of gender sensitive policies and laws.

Commission of the Government of Montenegro for monitoring of the Strategy for improvement of the RAE population position 2008-2012, formed in order to coordinate activities on the Strategy's implementation, implements periodic action plans for the Strategy's implementation, monitors its implementation, evaluates achieved result

and proposes measure for removal of recognized deficiencies, reports to the Government of Montenegro on implementation of the Strategy. Ministry for Minority and Human Rights provides administrative- technical assistance to the Commission. The commission is chaired by the Minister for Human and Minority Rights. Except representatives of key state sectors, members of the Commission are also representatives of National Council of Roma and Egyptians and representatives of civic society of Roma and Egyptians.

National Council of Roma and Egyptians (NCRE) is the body that represents and promotes the Roma and Egyptian community, in accordance with the Law on Freedoms and Rights of minorities. State institutions are obliged to develop close cooperation and mutual trust with representative bodies of minorities, and to create a continual consultative process in planning of measures and activities for improvement of minorities' position. NCRE participates in Minority Fund management, and it is represented in the Commission of the Government of Montenegro for monitoring of the Strategy for improvement of the RAE population position 2008-2012. NCRE has special committees, which are monitoring fields of education and employment.

Non-governmental organizations (NGO) are subjects which consistently contribute to improvement of social cohesion in Montenegro, and are recognized as reliable social partners in the field of promotion and development of capacities within Roma and Egyptian minority. Legal framework for establishment and functioning of NGO's is exceptionally favorable.

Roma Scholarship Fund (RSF) offers support to Roma and Egyptians integration in Montenegro, through granting access to education and employment at all levels. It is specially recognized for granting scholarship and mentor support during elementary, secondary and tertiary education, programs of adult education, vocational trainings, as well as during first employment of Roma and Egyptians.

Institute of Social Inclusion (ISI) is an organization specialized for different challenges of social integration of Roma and Egyptians, recognized for programs of public advocacy towards stakeholders and watchdog role in policy implementation, as well as measuring effects of undertaken measures in area of social inclusion related to Roma and Egyptians.

SOS telephone for women and children violence victims (SOS) is a non-governmental organization with remarkable results in development of entrepreneurship with young Roma women.

Media are important partners of citizens, institutions, political parties and none governmental organizations in representation of situation, challenges and problems in the Human Rights area, especially in cases of concrete human rights violation.

IV Strategic framework

Ministry of Labor and Social Welfare in November 2007 has passed *Strategy for integration of the Persons with Disability in Montenegro*²⁶ for the period 2008-2016, which represents long term strategic plan of all social actors in Montenegro. Main aims of the Strategy are:

- Adequate system of social protection of PWD, based on development of adequate compensatory rights and development of different support services;
- Accessible environment;
- Accessible adequate educational system;
- Employment opportunities for PWD
- Raised awareness of the public on persons with disability, as citizens with equal rights.

The main aim of the Strategy is directed towards establishment of legal framework for employment of the persons with disabilities, which should create conditions for their adjustment to the labor market, through education, trainings and professional advancement. It also aims to adjust labor market to persons with disabilities. In the Strategy is stated that current legislation on persons with disabilities in Montenegro is not offering legal base for institutional solutions of current problems in professional rehabilitation of PWD, (which, in wider sense, encompasses professional directing, professional training and employment), or inducement of employment of this population. Except this key reason for low employment rate of PWD, in the Strategy are also underlined: prejudices of employers, low level of education, lack of corresponding skills and competencies, lack of support services, lack of motivation, lack of self confidence of PWD. An additional problem represents lack of adequate communication, as well as scarce information flow among institutions, which are dealing with education and employment of PWD. Some activities from this Strategy, related to resolution of PWD problems and creation of better working and living environment, were implemented. Action Plan for implementation of this Strategy for period 2010-2011, was adopted. Strategy for Inclusive Education in Montenegro was adopted as well. In the last period, certain progress is noted in area of legislative regulations regarding rights of PWD (following laws were adopted: Law on professional rehabilitation and employment of persons with disabilities, Law on movement of persons with disability with assistance of dog helper, Construction Law, Law on promotional tickets for persons with disabilities and Law on ratification of the UN Convention on Rights of Persons with Disability with Optional Protocol)²⁷. On the other hand, when it comes to PWD employment, there is still plenty of room for the action.

²⁶ „Strategy for Integration of Persons with Disabilities in Montenegro for the period 2008-2016.“Ministry of Health, Labour and Social care, Podgorica 2007.

²⁷ Report from the round table “position of persons with disabilities in Montenegro” on 3 December 2010. Ministry of Labour and Social care of Montenegro

In *Poverty Alleviation and Social Inclusion Strategy*²⁸ (PASIS) it is stated that there are 2.740 persons with disability in the registry of the employment Agency of Montenegro (2004; 2.743), out of which 2.179 are disabled workers of I and II category of disability, as well as 561 person of categorized young people. When it comes to Roma and Egyptians position at the labor market, unemployment rate of Roma in Montenegro in 2003 was 43,3%. Working activity has declared 10, 8% Roma and Egyptians. The high unemployment rate is prevalently a consequence of exclusion of Roma population from the education system. During implementation of this Strategy, unemployment rate in 2008 has increased for 6, 25% which amounts to 1.775 new unemployed persons. In registry of Employment Agency of Montenegro was registered 40% of persons difficult to employ, out of total number of unemployed persons (out of which, there are 2 447 persons with disability).²⁹ One of the future activities of the Strategy at the labor market, will direct strategic development towards realization of certain projects, among which are programs for employment of Roma, intended for resolution of problems of unemployment of Roma population. These projects will be directed towards “registration of Roma interested in programs of Active Employment Policy (AEP), popularization of AEP among Roma population, as well as creation and implementation of special programs of employment intended for Roma population.”³⁰

In 2007, the Government of Montenegro has adopted *National Strategy of Employment and Development of Human Resources for period 2007-2011*³¹, which requires undertaking a row of measures and activities for establishment and functioning of the system for professional rehabilitation and employment of PWD, as well as other persons with difficulties in process of employment. This Strategy promotes raising quality of employment, through improvement of conditions for opening of new vacancies and inducement of investments in development of the human capital. Strategy represents direct sequel and innovation of National Strategy of Employment from 2003. Strategy has been innovated with consistent respect for provisions of Stabilization and Association Agreement, related to preparations for participation of Montenegro in integrated socio-economic policies of the EU. Main indicators of Strategy’s success are: general employment rate of minimum 60%, employment rate of women 50%, unemployment rate below 10%, involvement of 50% long term unemployed persons in active measures in form of trainings, requalification, working practice, or other employment measures in combination with continuous assistance in job search, increase of percentage of youth with finished secondary education, decrease of dropout rate from regular education system. Strategy of employment in accordance with possibilities of Montenegro, realization of the EU directives in area of employment policy. The objectives of the Strategy, in terms

28 Strategies for repress poverty and social exclusion, Ministry of Labour, Health and Social care of Montenegro, Podgorica 2007.

29 Information on the implementation strategy for reduction of poverty and social exclusion (SSSS), Ministry of Labour and Social care of Montenegro, Podgorica 2010.

30 Strategies for suppression of poverty and social exclusion, the Ministry of Labour, Health and Social care of Montenegro, Podgorica, 2007, p. 25.

31 National Strategy for Employment and Development of Human Resources for the period 2007-2011. Ministry of Labour, Health and Social care of Montenegro, Podgorica 2008.

of social inclusion, are: decrease of the unemployed without vocational training to about 20%, development of special programs and specialized contractors to put more efforts to employ groups of unemployed, to reduce regional disparities of employment and unemployment, employment growth of 2.5 to 3%, reducing the unemployment rate at 8 from 10% and reduced labor and employment in gray labor market

„Strategy of minority policy – policy of the Government of Montenegro in area of respect and protection of minority rights” from June 2008, represents a plan through which the Government defines measures for improvement of living conditions of minorities and for more effective implementation of the Law on Freedoms and Rights of Minorities. Strategy represents sum of concrete measures and activities in following ten-year period of legal, political, economic, social, cultural, informative, educational and every other character with an aim of general improvement of minorities’ position and their better integration in social activities. More important objectives of this Strategy are providing of effective and functional participation of minorities in state and society administration, because it represents an important precondition for protection of other minority rights and acceptance of Montenegro as their own state. Also, it is underlined importance of accessibility of high education through implementation of the affirmative action principle. The strategy has envisaged creation of plans for improvement of regional development and employment, especially in areas inhabited by minorities, as well as stimulation of economic activities in function of development of underdeveloped regions. It is planned to set protection mechanisms of social policy with special accent on position of vulnerable groups (children, women, elderly persons, and persons with special needs), decentralization of social policy, development of infrastructure and inducement of loans for the projects of local and regional importance.

At the beginning of 2005, the Government has initiated program **“Decade of Roma Inclusion”** and adopted its **Action Plan** for the period 2005–2015. Action Plan has defined priorities of government and social attention – education, health, employment and housing.

According to existing data, from the last census in Montenegro, 2601 persons have declared as Roma, or 0,42% out of total population of Montenegro, as it was stated in the *Strategy for improvement of the RAE population in Montenegro, for the period 2008–2012*³², which represents constituent part of protection and advancement of minority rights in Montenegro. According to unofficial data, in Montenegro there is over 20 000 of the Roma and Egyptians, out of which majority doesn’t possess personal documentation. Except this, large number of them is constricted to a life in extremely bad conditions, which mainly relates to health and hygiene conditions, but also to conditions of social insurance, education, low level of qualifications, poorly paid jobs, and high unemployment rates. This Strategy is aligned with requirements of Roma non-governmental sector and international organizations in Montenegro. This document is mainly perceived as

³² The strategy for the improvement of Roma population in Montenegro 2008’2012, Ministry for Human and Minority Rights of Montenegro, Podgorica, October 2007.

a corrective mechanism for Action Plan of the Decade of Roma Inclusion Strategy. Strategy is implemented already several years and it represents a sum of concrete measures and activities in four –year period of legal, political, economic, social, education, cultural-informative, healthcare character with identified carriers, deadlines and budget. In area of employment and working relations, clear goals are defined: organizing of specific annual programs of additional training and further education, of Roma and Egyptians for jobs and skills, which are demanded at the labor market, taking in consideration on traditional Roma vocations, necessity of their modernization and adjustment to contemporary conditions of the labor market. Special attention is being paid to legalization of existing entrepreneurship in domain of gray economy without special taxation, providing adequate business and taxation privileges in determined time period, employment of certain number of persons in public services, legal, healthcare and other institutions in areas mostly inhabited by Roma and Egyptians. Also, as priorities are marked:

Providing equal access to vacancies, with quota system for certain jobs for unemployed Roma, based on the principle of affirmative action; establishment of specific system of business and taxation privileges and subventions for Roma and Egyptian entrepreneurs, or other entrepreneurs who are employing Roma and Egyptian workers.

Strategy of regional development and Strategy of Vocational Education are also important documents, which are foreseeing an increase of possibilities of access to the market to minorities. *Strategy of regional development* (2005), is a document of the Government of Montenegro, which recognizes differences in economic and social development of the country, which is especially significant from aspect of minority inclusion, because balanced development contributes to economic development of areas mainly inhabited by minorities.

Strategy for development of Vocational Education in Montenegro 2010-2014 aims to establish vocational education system which grants acquirement of necessary qualifications for equal participation at the labor market and professional advancement, personal development and continuance of education.

V Analysis of the current situation

5.1 Access of Persons with Disabilities to the Labor Market

In this chapter will be exposed analysis of the current situation in Montenegro from the perspective of the persons with disabilities, Roma and Egyptians in context of employment and labor market in general. Analysis was created on the basis of court documents, interviews with target groups and experiences.

„ More than half citizens of Montenegro consider that persons with disability are

discriminated in Montenegrin society, while only 8% of them consider that they are not discriminated. Area of labor and employment is identified as most discriminatory in this sense (54%)”.³³

5.1.1 Functioning of institutions

Ministry of Labor and Social Welfare should have the most active role in protection of rights of employees with disabilities. However, it is undisputable that in the last years rights of these persons in labor and work were violated and position of persons with disability was additionally worsened. Passivity of this Ministry was obvious in the case of 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 Montenegro³⁴, has responded in written form³⁵.

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 case.³⁶

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.

Ministry for Human and Minority Rights, within its competencies has also protection of persons with disability.

Possibilities of this Ministry were not adequately used, in cases when it was obligatory and in the manner it should have been done, in order to protect rights of persons with

³³ Survey Association of Youth with Disabilities CG, 2010.

³⁴ Remarks by the Association of Youth with Disabilities MNE to the Ministry of Labour and Social care

³⁵ Letter from the Ministry of Labour and Social care of the 09.11.2010. addressed to the Association of Youth with Disabilities MNE

³⁶ Letter from the Ministry of Labour and Social care of the 09.11.2010. addressed to the Association of Youth with Disabilities MNE

disabilities. Ministry for Human and Minority Rights also didn't react in the case of Mugoša Marijana, which influences severely to protection of rights of persons with disabilities.

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 procedure.³⁷ 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 regard.³⁸

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 office.³⁹

However, the fact that she has succeeded in court procedure, and that a court decision is 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 job.⁴⁰

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.⁴¹ 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

The Employment Agency of Montenegro conducts a program of preparation for employment, above all through program of public works, has tried to include more persons with difficulties in employment. In the registry of the Agency, there are 40% of persons with difficulties in employment out of total number of unemployed persons, among which are

37 Interviews with persons with disabilities

38 Case of Mugoša Marijana- Capital city

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

40 Interviews with persons with disabilities

41 Case of Mugoša Marijana- Capital city

also persons with disabilities (2.477). Number of less employable persons was determined through triage, i.e. categorization according to the type of possible employment, type of necessary professional treatment in order to overcome obstacles in prompt and effective manner.⁴² 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.

Employment Agency of Montenegro, a mediator in employment process of unemployed persons, where currently 25000 persons with disabilities is registered, out of which 2000 are disabled workers. Employment Agency of Montenegro is recognized as reliable partner in improvement of position of disabled persons, especially related to implementation of the project “Personal assistant”.

There are two types of public works: public work in context of assistance to children with disabilities in house, in school – when they are included in regular education according to inclusive model; as well as work in context of assistance to children and youth with disabilities in house and in daycare centers. Sixteen public works of first type is conducted in seven communities, with 114 persons in position of the personal assistant and 7 public works of second type with 26 persons in position of the personal assistant.

The Government of Montenegro has, through passing of the Decree on Tax Relief⁴³ in duration of one year, has tried to contribute to stimulation of PWD employment. According to this Decree, employers who employ persons with disabilities are not paying for obligatory social insurance and retributions for using of communal goods of common interest, and taxation on wages of employees.

Construction of Center for Working Integration of Less Employable Persons, is currently in progress in Podgorica. This institution is intended for all persons who are not employable without network of support and additional professional directing.

In order to implement laws in more qualitative manner, EAM has stated that it is necessary to train professionals of various experts, which will implement programs of professional rehabilitation of less employable persons, according to international standards. EAM has realized measures and activities in course of 2010, which have encompassed 110 with difficulties and obstacles in employment. Aim of these programs is, prevalently, determining of remaining working ability of persons from the registry of EAM, and accordingly inclusion in remaining programs of professional rehabilitation. Law on professional rehabilitation and employment of persons with disabilities was brought with the aim to create conditions for successful professional rehabilitation, equal participation

⁴² The strategy for reducing poverty and social exclusion

⁴³ the Regulation on Tax Relief, Government of Montenegro, Official Gazette. No. 21/07

at the labor market and increase of employment of persons with disability by removing barriers and creation of equal opportunities. In order to complete creation of unified and standardized system for professional rehabilitation and employment of persons with disability, as well as other less employable persons, in August 2009 by-laws on professional rehabilitation and employment of persons with disability have been adopted:

1. Regulation on specific conditions and modalities of realization of rights to subvention of wages for persons with disabilities
2. Regulation on conditions that an institution for professional rehabilitation, working center, sheltered workshop and trade drive should provide;
3. Regulation on specified conditions, criteria and standards for implementation of measures and activities related to professional rehabilitation
4. Regulation on condition and modalities of realization of right to professional rehabilitation
5. Regulation on conditions and criteria for determining remaining working abilities and employment opportunities

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 Law⁴⁴.

However, Labor inspection has reacted in the case of Andrija Samardžić⁴⁵, which is very important, but it has shown selective manner of this body functioning and selective implementation of the law.

5.1.2 Lack of employers' motivation to employ PWD

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 persons"⁴⁶. 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.

Persons with disability, especially those who are waiting for the job for a long time, have shown preparedness to initiate their own business, but they accentuated high interest rates in majority of Montenegrin banks, as the biggest obstacle to realization of this aim.

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⁴⁴ Case of Mugoša Marijana - Capital city

⁴⁵ Andrija Samardzic case which is ongoing

⁴⁶ Survey Association of Youth with Disabilities MNE 2010

⁴⁷ Interviews with persons with disabilities

Although large amount of regulations, which positively treat issues of persons with disabilities and their employment, in their implementation occur numerous problems which have resulted in court cases for protection of their rights.

Case study: Mugoša Marijana – Capital city

In the case of Mugoša Marijana, administrative worker if the Capital city and user of the dog helper, which had court epilogue, all weaknesses of the mechanisms for implementation of decisions, but also lack of capacities of the state – relevant Ministry – which were obliged to react. Namely, for prohibition of entry to working space with assistance of dog helper, regardless the Law that grants use of this assistance, Mugoša Marijana – person with disability, has filed a complaint to the relevant court for protection of her rights. Previously, all Ministries were notified⁴⁸, but with no results. After the court has issued temporary decision by which the Capital City was required to enable an undisturbed return to work until the final verdict, it hasn't substantially changed a thing. Employer disregarded temporary decision, and continued to restrict the access to disabled employee.⁴⁹

After the final verdict was brought, and Mugoša Marijana won the case against employer⁵⁰, she was still restricted from accessing working space with assistance of the dog helper.⁵¹

One of the good consequences of this court dispute is demonstration of the fact that court protection will be granted to each disabled person. However, lack of implementation of court decisions and verdict could further discourage disabled persons, taking in consideration the fact that even seven months after the verdict, it has not still been implemented, despite the fact that it was marked as urgent.⁵²

From relevant institutions and ministries addressed by Mugoša Marijana, which had to react in concrete situation, only Ombudsman has responded. Even this institution has proposed change of the Law on movement of blind persons with assistance of dog helper, in order to make provisions of this law more precise.⁵³

It is indicative that no Ministry has responded to final verdict. However, Ombudsman has reacted during the court procedure and after brining of the final decision. Ombudsman has publicly invited the body – institution responsible for implementation of the verdict, to fulfill its obligation and grant to disabled person its rights.⁵⁴

After initiative of the Association of Youth with Disabilities of Montenegro, on March

48 Letters directed by the Association of Youth with Disabilities MNE

49 Court files of Mugoša Marijana - Capital city

50 Final verdict in the case of Mugoša Marijana -Capital city

51 Executive procedure in the case of Mugoša Marijana - Capital city

52 Executive procedure in the case of Mugoša Marijana - Capital city, which is ongoing.

53 Letter of the Human Rights and Freedoms sent to the Association of Youth with Disabilities MNE

54 Many media carried a statement from the Human Rights and Freedoms on 21.11.2010.

4th, 2008 – the Law on Movement of Blind Persons with assistance of Guide Dog was adopted. After problems in aforementioned law implementation, in 2009 was adopted new Law on Movement of Disabled Persons with Assistance of Dog Helper. Adoption of this law has shown commitment of our society in achievement of standards related to the rights of disabled persons. In less than two years, since adoption of the Law, our citizens are users of two guide dogs and one dog helper. Ten months after adoption of the Law on Movement of Disabled Persons with Assistance of the Dog Helper, one complaint was filed to court for violation of its provisions. User of the dog helper has succeeded to win in the court procedure for protection of her rights. However, for more than six months since final verdict, employer disregarded the decision of the court. A particular problem is the fact that, in concrete case Capital City is not obeying the court's decision, and as a state institution it should be leader in protection of rights of persons with disabilities.

Due to a set of measures conducted by the Government of Montenegro, in order to legalize working post, there is a very small number of persons with disability, who are employed, but unregistered in accordance with the Labor law, but also there is small number of employed persons with disabilities, prevalently in public institutions, and extremely rarely with entrepreneurs.

In few last years, due to interventions of international organizations, more attention is paid to persons with disabilities, thus it is necessary to keep regular contacts with relevant institutions.

Cooperation of state institutions and private sector with international organizations, in part of improvement of persons with disability position and their access to labor market, should be more intense. Continuous cooperation with international organizations, above all through exchange of experiences and opening of new possibilities for employment of disabled persons, is necessary to decrease number of employment of unemployed persons.

Due to the situation at the labor market, and access of the persons with disability to the labor market, state and its institutions should participate much more. Before all, achieved standards in process of employment and process of work of PWD should be monitored and implemented.

5.2 The Labor market access for the Roma and Egyptians in Montenegro

Roma and Egyptians (RE) are the most vulnerable and marginalized ethnic group in Montenegro. Causes of their bad position are: poverty and unemployment, lack of information and education, negative aspects of their tradition, frequent discrimination and segregation, acceptance of their rights violations, strong racial and ethnic distance towards them, lack of adequate framework for improvement of position and rights (in the past), long term disorganization of these communities and existence of other social priorities and open issues, which prevented effective and organized actions on promotion of Roma and Egyptians' rights (wars, refugees, sanctions, hyperinflation, generally bad

standard, of whole population, resolving of sovereignty issues)

According to the official data, from 2003, the number of Roma and Egyptians in Montenegro, amounts to 0.5% out of total population. In-field research, and work with this community have shown that these data are not reliable. For the long period relevant non-governmental organizations and international organizations, and international agencies, including the Government itself, have stated that their number in Montenegro is between 15 000 and 20 000 (around 3%). In last several years, with efforts vested by the UN, significant number of Roma refugees has returned to Kosovo. Bureau for Statistic has conducted in 2008 informal research, which has shown that in our country currently lives around 11 000 members of these ethnic communities, which is slightly less than 2% of the total population.

There is still no reliable data on true poverty of Roma and Egyptians in Montenegro. In Development Strategy from 2003, RE population has a poverty rate of 52.3%. According to the report on human development, the poverty rate is 36%.⁵⁵

Roma and Egyptians are groups with very limited opportunities for employment, low competition power, and scarce mobility possibilities at the labor market, due to their generally low level of qualifications, education and presence of discrimination. Without development of the social economy concept, stimulation measures, tax and other reliefs and overcoming of stereotypes and prejudices, it is not realistic to expect their significant success at the labor market.

5.2.1 Language barriers

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 amounts to 57%, while with Roma who were included in adult educational programs, that percent amounts to 53%.⁵⁶ Roma language, by ratification of European Charter on Regional and Minority Languages, has been recognized by the Government of Montenegro as specific minority language, but it is excluded from the educational system. The Government explains that fact, with arguments that Roma language is still not standardized, and that there is lack of teaching staff and text books. Although this problem exists for years, no stimulation measures were created to enhance human resources, or to overcome problems of standardization.

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

⁵⁵ National Human Development Report 2009: Montenegro Society for all, UNDP i ISSP, Podgorica, 2009. http://hdr.undp.org/en/reports/nationalreports/europethecis/montenegro/Montenegro_NHDR_2009_EN.pdf

⁵⁶ FSR Annual Report on the fellowship program, prepared by Andrija Djukanovic, Podgorica, 2009.

were no initiatives. NGO sector proposes to organize lectures in first grades of elementary school in Albanian language. They are assured that in this manner Roma children would better understand learning materials and they would better learn official language. In this manner, employment of persons, who are finishing academy studies for teaching in Albanian language, would be stimulated.

5.2.2 Low level of education of Roma and Egyptians

The educational structure of Roma population is very unsatisfactory, which puts them in an unfavorable 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%.⁵⁷ 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).

Small number of RE children graduate from elementary schools. According to the data of UNDP, from 2006 – only 10% of these children complete elementary education. Drop out from elementary schools is especially acute in Podgorica, where the dropout rate in last two years has increased to 50% (ISI).

The problem of education quality of Roma children in elementary schools represents a significant problem. Examples of children in sixth grade of elementary school with scarce literacy and bad understanding of Montenegrin language, were registered. Percent of Roma and Egyptians that have graduated from secondary school is less than 2% (ISI, 2010).

In school year 2009/2010, according to Roma Scholarship Fund, in all Montenegrin high schools were registered 37 students of this population. That number in 2010/2011 increased to 61. Due to invested efforts of the Government of Montenegro and RSF, dropout or breach of secondary education rate has decreased (around 6%, RSF, 2010). In the period 2004-2010, a total number of 101 people was registered in secondary schools, out of which 63.4% of boys and 36.6% of girls. About 44% of enrolled RE students have graduated, while 35% are currently enrolled to secondary schools. There are 21% of those that have left school, interrupted further education or excluded, or they stopped claiming to be Roma or Egyptians.

Young people with secondary education are a rarity among Roma and Egyptians. With

⁵⁷ 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.

a few exceptions, after 12 years of regular education, they get employment exclusively in utility services. That fact is unacceptable. State, in cooperation with these people, must find ways for their inclusion, otherwise it will soon face motivation challenges. It is a bad social message that a Roma person with completed secondary school is working as the scavenger, along with his compatriot, who is illiterate and has never attended a school. These kinds of examples are impossible to find in other national groups in Montenegro.

University education has acquired only two members of these communities while ten Roma and Egyptians are enrolled at some of the study programs at the University of Montenegro. Out of that number, one Roma is employed at the Ministry for Human and Minority Rights, while another person is professionally engaged in civil sector.

In the case of students, a special challenge that occurs is low quality of previous education incompatible with concrete study programs. When it comes to education of adults and vocational trainings, the leading challenges are family duties and motivation. Facing problems with bare existence is disabling good quality of education.

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.

From the Center for Vocational Education it was pointed out that significant number of educators of adults are working without a license. There is lack of information on regulations in the area of adult education. Educational network is generally poorly developed. We could say that supply is poor and droning. Main contents offered are foreign languages and informatics. An important problem is also lack of professionals for education of adults, which significantly influences adult education development. In Montenegro, there are less than 10 professional educators of adults and many of them are not employed in their field.⁵⁸

For five years of the initiative “Decade of Roma Inclusion” was created and adopted about twenty new professional standards and educational programs for simple vocations. These vacancies are especially accessible to less employable categories. Recent adoption of two new professional standards: assistant and organizer of social inclusion – could significantly contribute to an increase of employment among Roma and Egyptian population. This relates mainly to vacancies of assistants or mediators of social inclusion in preschool institutions and elementary schools, employment agencies, social centers, healthcare centers, state institutions and local self governance institutions. This represents a chance for Roma and Egyptians with secondary education.

Without parallel attention paid to children and youth in preschool institutions, as well as to their parents, effects of social inclusion cannot be satisfying.

⁵⁸ „Social inclusion of ethnic groups in the Western Balkans through education and training: examples of good practice. ETF, Torino, 2008

Discrimination by employers

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 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.

Decree on Tax Relief for the employment of certain categories of unemployed person established as tax reliefs for employers who hire certain categories of persons with difficulty to get employed. With those measures are particularly satisfied local government and civil society organizations since the program through national and local public works employed a significant number of Roma and Egyptians. In 2010, with the support of the Institute for Employment through public works about ten Roma with secondary education had the opportunity to acquire several months of work experience in adult education, basic education, and work with the Roma community.

Recently adopted anti-discrimination law provides additional guarantees for the realization of real equality of minorities. It has special significance for Roma and Egyptians. Establishing a new framework for combating discrimination, in the long period, should lead to better protection of the Roma and Egyptian community in the labor market. Anti-discriminatory policy, because of the adopted protective mechanisms, will work in field of education and preparation for meaningful and sustainable employment. Modifications of legal regulations, and strengthening of the independence have made the Ombudsman institution much more visible and more capable to combat discrimination. Proof of this is the quality of annual reports and increased public appearances of the Ombudsman.⁵⁹

5.2.3 Low living standards

Problems in housing are being reflected also on the labor market. Less favorable living conditions deepen their systemic stigmatization and discrimination on the labor market because of social origin. Roma and Egyptians are mostly residentially segregated. They

⁵⁹ www.ombudsman.co.me

live in the isolated settlements which are without adequate infrastructure. In them is very often expressed the problem of access to drinking water, electricity cuts and hygiene. Connection between these structures with urban and city functions is weak. Nearly 50% of Roma and Egyptian households live in the shacks, while slightly above 30% in the buildings of solid poles (UNDP and ISSP).

Adult education has an effect on the poverty of parents, which is recognized as one of the key reasons for abandoning the education system. Alleviation of this problem significantly contributes to the Employment Agency of Montenegro through the public works program. Therefore, when evaluating the progress and success of Roma population, all the problems and restrictive factors with which they and their families are facing in the their daily lives should be taken into consideration.

5.2.4 The absence of legal aid

A serious lack of Montenegrin legislative framework is still a fact that has not adopted the Free Legal Aid Act, which is necessary for transitional societies with significant rates of poverty. Roma and Egyptian judicial system is not available and are frequent examples of discrimination against them in front of courts and in undertaking of police authorizations.

According to estimates from the DecadeWatch Team for Montenegro, lack of effective implementation of the action plan Decade of Roma Inclusion has been due to lack of necessary organizational, technical, personnel and financial requirements for achieving the set objectives. The Government until the end of 2009 had not positioned responsibility for the coordination and implementation of this document.

5.2.5 Functioning of institutions

Unlike previous years, the Parliament has had a more active and important role in comparison to executive power not only in legislative sense (efficiency significantly improved), but also in the process of monitoring and evaluation of the quality of work in the most important institutions which guarantee the rule of law and respect for human rights. Particular attention was paid of certain parliamentary committees in 2010 dedicated to the issues of social inclusion of Roma and Egyptians.

According to data from FSR, Board of Education Science, Culture and Sport has actively monitored the adult education and took part in NGO activities and adult education providers. Board for health care, labor and social Welfare, also according to data of FSR, considered certain information concerning the social inclusion of Roma and Egyptians and adopted several recommendations concerning to provide support, functional, literacy, developing skills and employment.

Until today however, a single committee nor the Parliament in general were not hosting a debate dedicated to the Decade of Roma Inclusion.

Trade union movement has for years been without sufficient authority and appropriate social impact. The last two years have seen intensified efforts in the field of promoting trade union pluralism. This has helped recognizing and establishing of trade unions as important institutions in protecting and promoting human rights, truly unavoidable social partners, without whose agreement can not be resolved any key issue of economic and social status of workers. Attention of trade unions according to narration of employees of the Roma and Egyptian communities is still not enough.

A significant segment of the active employment policy (APZ) are different programs of the Employment Service, a system designed to reduce unemployment for hard employable groups. This opens up a whole new quality to solve unemployment in Montenegro. A series of vocational trainings stimulates preparation and motivation for the inclusion of unemployed people in the labor market as well as training of trainers, recruited from ranks of unemployed people, especially for work with unemployed persons who will adopt the techniques and methods of efficient search for employment and skills to keep a job. Considerable attention in 2010 is devoted in creating an adequate staff and developing the structure for working with categories of hard employable population which includes Roma population. In the field of employment of persons from the Roma and Egyptian population, the Employment Institute is developing partnerships with civil society organizations and employers.

Roma Scholarship Foundation (RSF) is one of the implementing partners. Over RSF, during the period of four years, have been realized three public works (two national and one local).

Through them, about fifty workplaces are opened for a period of two to six months.

Currently Roma-Egyptian NGOs and other structures do not provide continuous and sufficiently efficient public pressure. Also, the capacity to access EU funds in the case of these organizations are completely limited.

5.2.6 Media popularization

Earlier strict division of the media, pro-Montenegrin and pro-Serbian or those who (do not) support the survival of the common state with Serbia, is no longer current. Considerable attention is given to training and reporting of journalists. A modern journalistic codex was adopted and significant progress has been made in terms of self-regulation of the media scene. In recent years, the trends are really paying attention, in all media, both print and electronic, to situations of daily life in which the field of civil, political and social rights is particularly evident. Visibility of the RE population in the media is increasing. A number of media such as RTCG and the weekly magazine "Monitor" develop special facilities dedicated to RE and regarding this there have been hired professionals from the community itself.

5.2.7 Support programs

There are a number of projects seeking to improve opportunities for employment of Roma population. However, part of the projects are not providing positive results due to inadequate implementation.

So far, stimulating legalization was not accessed of the existing business in the sphere of informal economy nor quotes according to the principle of affirmative action for certain jobs for unemployed Roma.

Until now there has not been established, as provided under the policy documents, special systems of business and tax reliefs and subsidies for Roma entrepreneurs and other entrepreneurs who employ Roma workers.

The Ministry of finances did not prepare the appropriate by-laws. A special fund for financing entrepreneurship and self employment for persons of Roma population under favorable conditions than the market by providing interest-free loans or loans with very low interest rates with longer repayment periods, has not been established. One of the operational objectives of the project “Reducing vulnerability of domicile of RAE population, which the Employment Service realized in cooperation with financial support of UNDP, was the promotion of entrepreneurship among the Roma population. In addition six grants were awarded. The percentage of viability is about 30%. Although the review by the Commission of Employment Agency of Montenegro for the implementation of the Programme for the continuous stimulation of employment and entrepreneurship in Montenegro and Coordinator of Employment Service and UNDP is carried out regularly, the percentage of success is not great due to lack of an adequate system for providing the funds.

Part of the project, supported by the state budget in the northern part, for stimulating persons of Roma population to deal with agriculture and collection of raw materials, have not succeeded, primarily due to poor implementation and inadequate target groups.⁶⁰

A successful example is the workshop co-operative “Rukatnica” implemented by the SOS line for Women and Children Victims of Violence in Niksic, which is quite in accordance with the projected goals of the Strategy for improving the situation of RAE population.

The official “**program of elementary functional literacy of the population**” (2005) fundamentally and practically refers to Roma ethnic group. The program began its implementation in 2007, through the program “Second Chance” which was jointly implemented by the Employment Agency, Centre for Vocational Education (CSO), FSR and the German international organization for adult education “DVV International.

⁶⁰ DecadeWatch Report for 2009, FSR, www.isi-mne.org i www.romadecade.org/decade_watch_results_of_the_2009_survey

Public works are one of the most effective programs of APZ, which alleviates the consequences of open unemployment. Those are local and state employment programs which are organized due to the implementation of social care, educational, cultural, utility, environmental programs and are based on community work.

It stimulates the creation of new jobs and improvement of working potentials, capacities and experiences of unemployed persons, with local community development. Public works are based on socially useful work and non-profit programs and represent successful employment policy.

Support for attendance of primary and secondary school, University and adult education programs, through FSR, has proved to be crucial for social integration of Roma and Egyptian communities (RAE). Scholarship programs in elementary school help to prevent school dropouts, improve teaching quality, better success, and increase the number of children who complete primary education. In spite of good statistical data, the fact is, though, that a small percentage of persons are employed in their field

FSR also organizes the taking of the state licence exam for work in State institutions. It narrows the space for discrimination but also additionally incites their employment opportunities and higher participation of these communities in public life in Montenegro.

VI Experiences from the region

In this part of the study, we will present the problems faced by this group of people in Serbia and Bosnia and Herzegovina and present a positive example of Croatia, from which we will draw concrete recommendations to improve the situation in Montenegro. During the draft of the study we have conducted a comparative analysis of the situation in the region in order to find examples of good practice that would be applicable in Montenegro. However, it appeared that the condition of the rights of these groups of people in neighboring countries is almost as difficult as in Montenegro. From the comparative analysis of experiences in Serbia, Bosnia and Herzegovina and Croatia, we came to the conclusion that policies regarding these groups of people improve in line with the progress of countries on their way to European integration. This is another proof that integrations are the main driving mechanism for reforms, both in our country and the region. Considering that Montenegro has received candidate status and is waiting for opening of negotiations for EU membership, it is the right moment through reform, including policies regarding hiring persons with disabilities and RAE population, to come closer to our more advanced neighbors, who are a few steps ahead of us in this process.

6.1 Serbia

6.1.1 Current situation of persons with disabilities in Serbia

When it comes to employment policy in Serbia, its creation is primarily in thanks to the following institutions: the National Employment Service, relevant ministries (Ministry of Economy and Ministry of Labour and Social Affairs), Union of Employers, National Association for Independent Living of Persons with Disabilities, as well as compulsory insurance funds (Pension Fund and National Institute for Health Insurance), and the National Organization of Persons with Disabilities of Serbia. When it comes to collecting statistics on employment, the Ministry of Health and National Institute of Statistics is helping work with these institutions.

Republic of Serbia has arranged its legislative and strategic framework in a way that protects the rights of persons with disabilities to a large extent and prohibits discrimination of any kind. Thus, the *Serbian Constitution*⁶¹ and the *Charter on Human and Minority Rights and Civil Liberties*⁶², guarantee human and minority rights of every citizen of the Republic of Serbia, and these documents also prohibit any kind of direct and indirect discrimination on any grounds, including disability. The Law on Prevention of Discrimination against Persons with Disabilities (the first antidiscrimination law in Serbia), regulates the general regime of non-discrimination based on disability, special cases of discrimination of persons with disabilities, the process of protection of people exposed to discrimination and measures undertaken to promote equality and social inclusion of people with disabilities⁶³. The law, among other things, is based on the principle of inclusion of persons with disabilities in all spheres of social life on equal basis. Also, this law obliges public authorities to provide persons with disabilities to enjoy rights and freedoms without discrimination, especially in cases of violations of principles of equal rights and obligations and specific cases of discrimination, while prohibiting severe forms of discrimination, as well as print and display of discriminatory messages and symbols. All the mentioned cases include discrimination in employment, with what persons with disabilities in reality, unfortunately, are very often encountered. *The Law on Professional Rehabilitation and Employment of persons with disabilities*⁶⁴ is trying to encourage the employment of people with disabilities in order to create conditions for equal inclusion of persons with disabilities in the labor market. The law also recognizes the field of evaluation of work capacity, vocational rehabilitation, rights and obligations of persons with disabilities from the field of employment, encouraging their employment, active policy measures of employment of persons with disabilities and special forms of employment and work engagement of persons with disabilities. Under this law for every 20 employees, the employer must employ one person with disability, and if there are more than 50 employees, the number of employed persons with disabilities must be greater.

61 Constitution of the Republic of Serbia, Article 72, Paragraph 72, item 2 and item 6..

62 Charter on Human Rights and Fundamental freedoms, Article 3, paragraph 3.

63 Law on prevention of discrimination of persons with disabilities, Serbia, 2006 (Official Gazette RS no. 33/06)

64 Law on Vocational Rehabilitation and Employment of persons with disabilities, „Official Gazette RS“ no 36/09

According to the *Poverty Reduction Strategy*⁶⁵, which Serbian Government has adopted in October 2003, persons with disabilities are listed as one of the most vulnerable groups of population in the country and are located on the lower scale of poverty and social exclusion. Within this, it is not only about lack of funds, or material poverty, but it is an issue of environment that restricts access to basic services and exacerbates the situation of people with disabilities. This includes public transport, public buildings, pedestrian areas and roads that are not adapted to persons with disabilities. Also, persons with disabilities have limited access to information, which is best illustrated by the fact that most branches of the National Employment Service are inaccessible to persons with disabilities. In addition, there are barriers in terms of jobs that are physically inaccessible to persons with disabilities and usually do not have adequate equipment, and regarding that, prejudice to these people by employers and employees is not rare, which is an additional, so called psychological barrier. On the other hand, there is a problem of inadequate qualifications of persons with disabilities. In the beginning of 2010, according to data of the National Employment Service, there were only 7% of people with disabilities who have higher education, one person who has high school education, while all the others were unskilled or semiskilled. Based on this data it is clear that the inclusive education of persons with disabilities is a precondition to inclusive employment. According to research from 2001, over 70% of people with disabilities had very low income and under current criteria they would belong to the poor population. It is interesting that over 50% of revenue comes from income based on rights arising from disability - 14% disability (compensation for bodily injury), 26% Long-term Care, and 14% of social assistance. For this reason, one of the objectives of this Strategy is to reduce poverty and promote inclusion and support independent living of persons with disabilities, with the aim to socially protect people with disabilities, accessibility to environment and education, as well as their employment. The strategic directions of the Strategy include the key areas to create equal opportunities and inclusion of persons with disabilities including compensatory rights (rehabilitation, technical aids, fees, etc.), rehabilitation (restoration of the system and take of responsibility for rehabilitation, technical aids, financial compensation by the state, etc.) reconceptualization (establishment of the system on human rights and responsibilities of the state to create equal opportunities for persons with disabilities), harmonization (provision of sustainable standards in the process of transition), the adaptation of space, education and accessibility (access) to education, employment, inclusion in work and income generation, support services (administrative bodies, public services, justice, education services), frequency (full participation) of PWD in everyday life. The unemployment rate of vulnerable groups, including people with disabilities, Roma, refugees and displaced persons, is twice as high compared to the rest of the population, and an additional problem is the large regional disparities in the labor market. However, this Strategy had a positive effect, because within the goal to increase employment opportunities for vulnerable groups 208 people were employed with disabilities and 13 transition centers were opened⁶⁶.

65 Poverty Reduction Strategy in Serbia, The Government of the Republic of Serbia, 2003.

66 Second report of the implementation of the Strategy for Poverty Reduction in Serbia, The Government of the Republic of Serbia, 2007.

A later document, and also very important when it comes to improving the system of social security of persons with disabilities is **the Strategy for the advancement of persons with disabilities in the Republic of Serbia**⁶⁷, which was established for the period 2007-2015, and its strategic goal is to improve the situation of people with disabilities to positions of equal citizens enjoying all rights and responsibilities. The strategy is based on the principles of respect of dignity, individual autonomy and independence of PWD, non-discrimination, full and effective participation and inclusion of PWDs in all areas of society, respect of diversity and acceptance of disability as part of human diversity and humanity, equal opportunities based on equal rights, accessibility, building an accessible society by removing barriers, the equality of men and women, as well as the principles of respect for the capacity development of children with disabilities and respect of rights of children to develop their own identity.

In addition to listed documents, Serbia has ratified many international documents that deal with disability policy of PWD: Universal Declaration of Human Rights, UN Declaration on the Rights of PWD, the United Nations Convention on the Rights of the Child, UN Standard Rules for the Equalization of Opportunities of Persons with Disabilities, the European Social Charter, the International Convention on the Protection of Rights of Persons with Disabilities, the Council of Europe Guidelines 2000/43/EC and 2000/78/EC, Recommendations for a coherent policy for people with disabilities, the European Action Plan for equal opportunities for persons with disabilities and the European Action Plan for people with disabilities for the period 2006-2015.

It may be noted, that although the Republic of Serbia adopted a number of laws that protect the interests of people with disabilities, many laws and regulations are not respected in regulated extent, and in addition there is the insensitivity and lack of understanding of citizens for persons with disabilities, their lifestyle and needs. This situation significantly affects the high unemployment rate of persons with disabilities in Serbia. This is confirmed by the International Organization of Labor and the Union of Employers of Serbia from 2010, under which in Serbia are about 80% of people with disabilities unemployed, and the cause of that problem, in addition to the lack of qualifications, are social prejudices.

6.1.2 Roma in Republic of Serbia

According to research conducted by the Center for Research of Ethnicity, in Serbia, there are currently 593 Roma settlements (there are more than 15 families or more than 100 Roma). The research team of the Center has found that there are 201.353 of Roma living in Serbia, but 46.238 of Roma, displaced from Kosovo, who are in a particularly difficult situation, are unable to exercise their fundamental rights. Although, Roma are recognized as a national minority and third minority group by a number in Serbia, their dispersion and occurrence of ethnic adaptation to environment, among other things, prevent the exercise of their rights.

⁶⁷ Strategy for the advancement of persons with disabilities, the Government of Serbia, 2007-2015. („Official Gazette RS“ no. 55/05 and 71/05 – correction)

As in many countries, the overall social situation of Roma in Serbia is very unfavorable and according to all indicators of social position (employment, education, living standards, social standing ...), they are at the lowest social scale. The main characteristic of social and economic status of Roma is the low level of economic activity and high degree of unemployment. According to data from the census of Serbia from 1991, from the total number of Roma only 27.2% were economically active, employed were 58.2% of Roma aged 15-64⁶⁸. According to the latest census (2002) there are 108,193 of Roma living in Serbia (1.44% of total population), and NGOs warn that in our country there are between 450,000 and 800,000. About 2/3 of the Roma families assess their financial situation as bad and the unbearably bad, and only 18% of Roma housewives have steady job, and mainly those jobs are at the bottom of eligibility and are worst pay jobs⁶⁹.

Unemployment rate among Roma is four times higher than the rate of the majority of the population in Serbia and in the last 15 years has been almost doubled. Considering the professions of Roma, most of them are in professional fields that are at the least stratified scale. In accordance with the Poverty Reduction Strategy in Serbia, more than 40% of Roma are engaged in workers' occupations, mostly manual occupations. Also, many of Roma participate in services, as well as in arts (musicians, artists of various types ...), but most of them are engaged in those occupations that do not seek professional competence: workers of maintenance and cleaning, carriers, warehouse and construction workers etc. It is known that those are poorly paid and condemning occupations. For this reason, one of the objectives of this Strategy is to regulate relations concerning the system of employment and self employment of Roma, as well as to provide access to educational institutions at all levels of education, which is a precondition for a better job in the future.

Low level of education, professional trainings and discrimination that has so far prevented Roma to equally participate in the economy, impose the introduction of policy of equal opportunities. Republic of Serbia has directed a legal framework towards just that purpose. **The Constitution of the Republic of Serbia**⁷⁰ in 2006 was the basis for development of policies of protection of national minorities and it broadly regulates their status and protects their identity and integrity. According to one member of the Constitution, every inciting of racial, ethnic, religious and other inequality, hate and intolerance, is punishable by law. **Law on Protection of Rights and Freedoms of National Minorities**⁷¹ is the basic law which regulates the status of national minorities in Serbia. Basic principles by which is based the system of protection of minorities are: *the prohibition of discrimination, measures to ensure equality, freedom and national expression, cooperation with compatriots in the country and abroad, the obligation to respect the constitutional order, principles of international law and public morality and the protection of acquired rights.* By

68 Strategy for Poverty Reduction in Serbia, the Government of the Republic of Serbi, 2003, Part – Schedules and Annexes

69 „Roma settlements, living conditions and the possibility of integration of Roma in Serbia“, Bozidar Jaksic and Goran Basic, (Belgrade: Center for Ethnicity Reserch, 2002)

70 The Constitution of the Republic of Serbia, 2006.

71 The Law on Protection of Rights and Freedoms of National minorities in Serbia, 2002, (“Official Gazette, FRY”, no. 11/2002)

this Law, Roma are formally recognized as a national minority and it mostly provides opportunities for the development of culture, education, information and official use of minority languages. However, some provisions are difficult to apply when it comes to Roma, because the law is primarily directed at minorities who live in a homogeneous territory, while Roma are dispersed throughout Serbia (areas where there are more than 15% of the population are few, and this is the condition for the official use of minority languages⁷²). However, the Law on Local Government provides the possibility of positive discrimination, by which the language could be introduced into official use in the case that municipality resides less than 15% of the population. However, it should bear in mind that cultural autonomy is not the main problem that Roma are facing, but first of all it is unemployment, poverty and issue of social protection, as well as the provision of decent housing.

Although in the legislation of Serbia there is no discrimination against Roma, international observers believe that in reality there is strong discrimination against Roma, and even at the official level - there were many evidences that local authorities take part in degrading acts against Roma. Discrimination in particular exists within employment, at public services and education. There is evidence that main directions of discrimination against the Roma community in the period after 2000 are in the following areas: possession of identity documents, education, employment, housing and access to health care and freedom from violence . In the case of violent digging of Roma's settlement in New Belgrade, which has started on the 4th of April 2009, drastic forms of discrimination against Roma are direct and clear.

Pursuant to the legislative and strategic framework of the Republic of Serbia is striving for the fuller integration of Roma in all spheres of social life. According to legal framework, the strategic framework of the Republic of Serbia strives to a more complete integration of Roma in all spheres of social life. According **the Strategy for Integration and Empowerment of Roma**, there are two main factors that contribute to the unfavorable situation of Roma in the labor market and to restrict the majority of low paid and temporary occupation:

- 1) low level of education and vocational training, which is to a greater extent consequence of discrimination from the past and
- 2) discrimination of some potential employers.

Regarding all of this, the Strategy proposes the re-integration of Roma into the labor market, which includes:

- Employment of the large number of Roma (including Roma in programs of temporary public works and programs of construction of apartments for Roma community),

⁷² The Law on official use of language - ("Official Gazette RS", no. 45/91, 53/93, 67/93, 48/94, 101/2005) provides that in units of local government where are traditionally inhabited members of national minority, their language and alphabet should necessarily be in official use if there is more than 15% of total population of municipality.

- Providing support to employers who employ Roma (Fund for support which will provide to employers funds for loans for employment of Roma; tax incentives, as well as contracting by public institutions with companies owned by Roma are also proposed),
- Development of programs of enterprise development for Roma (promotion of establishment of income-generating enterprises, support of the development of traditional crafts of Roma community, facilitating the conditions for granting loans, predicting the establishment of “Fund for Economic Development” by the Government),
- Vocational training of Roma to enter the labor market (training, retraining ...)
- Information – starting of information campaigns regarding Roma and their rights and duties in the areas of employment,
- Giving recommendations to the international community - active employment of Roma in international organizations with the introduction of training programs and internships.

According to **the Strategy for the advancement of Roma**⁷³, there are conditions for improving the situation of Roma in Serbia and reducing differences between the Roma population and other population, and also it creates the basis for the identification and application of measures of affirmative action, especially in the areas of education and employment, health and housing. It is stated here that the Action Plan for employment of Roma under the Decade of Roma⁷⁴ are still not implemented in a systemic way and there is no clear position in the budget from which would be financed envisaged measures. On the other hand, there is no institutionalized cooperation of Roma civic associations and government bodies.

When it comes to employment, this Strategy gives priorities to increased employment opportunities for Roma:

- Increased number of Roma employed in local and state government,
- Integration and reintegration into the labor market (employment of Roma, providing support to employers and programs for development of companies and cooperatives for Roma),
- Training, retraining, functional education of unemployed Roma,
- Sensitization of employees in the branches of the National Employment Service

⁷³ The Strategy for the advancement of Roma, The Government of the Republic of Serbia, 2008, („Official Gazette RS”, no. 55/05, 71/05-corection, 101/07 and 65/08),

⁷⁴ By signing the Declaration of Decade of inclusion of Roma 2005-2015. in Sofiji on the 2nd of February, 2005, by Prime Ministers of member states, it has started the implementation of initiative of the Ddecade of inclusion of Roma, 2005-2015, whose main goal was advancement of the situation of Roma and to reduce unacceptable gaps between Roma and the rest of the population. This international initiative brings together countries of the Central and Southeast Europe, international organizations, civil society and representatives of Roma civil society.

for work with unemployed Roma.

Although the National Employment Service of Serbia announced a public invitation to persons of Roma ethnicity for the allocation of subsidies for self-employment in 2010, members of the RAE are reluctant to take this step, and reasons for this are the insufficient level of professional qualifications, insufficient level of education, as well as lack of confidence of these persons. Based on this data, we came to the conclusion that the overall social status and position of Roma are extremely bad and therefore concrete steps must be taken to adequately promote the system of inclusion of Roma in society.

6.2 Bosnia and Herzegovina

As a result of a five-year long war that took place in Bosnia and Herzegovina during the decade of the nineties of the last century, this country has a much larger population of young people with disabilities, which is not the case in other countries in the region.

6.2.1 Policy of employment of persons with disability in Bosnia and Herzegovina

According to UN estimates, 10% of the total population are people with some form of disability. It is estimated that the Federation has about 250,000 people with disabilities, of which about 80% are unemployed. One of the main reasons for this high degree of unemployment is inadequate legislation. This country has many young people with disabilities, however, there is no state law regarding persons with disabilities. For persons with disabilities there are no major financial incentives, access to various tools, special schools and other forms of assistance. A similar fate is shared by veterans and civilian victims of war. It is true that in Bosnia and Herzegovina there is a number of lower laws and regulations which regulate this area, but the problem is, as everywhere that they are not enforced. The highest concentration of Roma in Bosnia and Herzegovina is in Prijedor, Banja Luka, Gradiska, Doboje and Bijeljina.

The absence of the state law on the rights of persons with disabilities, to a certain extent compensates the Law on social protection, Law on health care protection, Law on spatial planning, the Law on education - education reform, the Law on free access to information and the *Law on vocational rehabilitation, training and employment of disabled persons*⁷⁵, which in a precise way defines the concept of disability and reduced work capacity as well as professional rehabilitation, duration of its implementation, and rights on employment of persons with disabilities, funds and employment conditions and forms of organizations dealing with the employment of people with disabilities. The law provides that persons with disabilities have the right of employment in the labor market under general or special conditions. The right on employment under special conditions prescribed by Article 15 Paragraph 2 of this law, have disabled persons with at least 40% of disability, persons with at least 70% of bodily injury and the persons with mild and moderate mental retardation.

⁷⁵ The Law on Professional Rehabilitation, training and employment of disabled persons, National Assembly, Official Gazette of the Republic Srpska, no 01-787 /04, October, 2004.

Rights of persons with disabilities in Bosnia and Herzegovina are protected by the Constitution of this country, and many international documents that this country has ratified: UN Convention on the rights of persons with disabilities, the Universal declaration of human rights, (1948), the European convention on human rights and fundamental freedoms, the UN Convention on Rights of child (1989), the Pact on economic -social and cultural rights, the Madrid Conference (2002), the Convention on the elimination of all forms of discrimination against women (CEDAW).

When it comes to strategic framework that deals with disability policy, there are two important strategies. According to the *Poverty reduction strategy in BiH*⁷⁶, about 175 000 citizens were in an easier or harder way wounded during the war. Among them are some 7,000 persons classified in the category of permanent disability, and surveys show that about 11 % of households in BiH has a member of a person with severe disability (12.5 % in the RS and 10.8 % in FBiH). The strategy of improving the social status of persons with disabilities in the Serbian Republic with regard to stimulation of employment persons with disabilities should promote economic independence of persons with disabilities through their active working efficiency and enhance legal solutions which will promote the economic independence of persons with disabilities through mainstream education and overcoming of the additional work skills.

People with disabilities in Bosnia and Herzegovina live on the margins of social existence, and the fact that in this country there is no state law which would protect their rights, only exacerbates the already bad situation in which these people live. Less established law and regulations cannot be enough to provide a solution that would bring in better position members of PWD in this country, because they are not adequately enforced, and therefore policy of improving the status of PWDs in BiH should go in a different direction.

6.2.2 Roma in Bosnia and Herzegovina

In Bosnia and Herzegovina, Roma represent the most vulnerable citizens of this country. They are the largest minority - from 17 national minorities as much as they exist in BiH. Personal documents, access to basic social rights, housing, education, employment and many other rights remain an elusive goal for a huge majority of Roma. The data of non-governmental organizations dealing with Roma issues show that the poverty rate among this population is 13.5 times higher than among the others in Bosnia and Herzegovina. Roma are the largest ethnic minority, which numbers about 40,000 people.

Roma do not exist in the Constitution. Together with all other minorities are classified as “others”, with theoretically guaranteed rights and the possibility of political action.

When it comes to strategic framework related to inclusion of Roma in Bosnia and

⁷⁶ Proposal of the Strategy for Poverty reduction in Bosnia and Herzegovina I-PRSP), The Council of Ministers of Bosnia and Herzegovina, Ministry of Foreign trade and economic relations, Sarajevo, November 2001.

Herzegovina, in The *Strategy of Bosnia and Herzegovina for the Roma*⁷⁷, in part related to their employment, it says that the employment of the Roma national minority in BiH is in close relation to the situation and results in the field of education. The causes of the fact that Roma represent most unemployed national community lay at a disadvantage qualification structure of the Roma population in BiH, reluctance of employers to hire members of Roma population and their distrust to entrust them better jobs. An additional reason for this problem is the fact that many Roma themselves rarely initiate their own business, so the situation occurs that even those Roma who have their own enterprise and have the opportunity to hire a certain number of Roma openly avoid to do it.

The economic and social situation in Bosnia and Herzegovina is generally unsatisfying, which of course, has negative consequences to the situation of Roma in Bosnia and Herzegovina. A difficult situation of unemployment has, as a result, a certain number of Roma dealing with the resale of goods or begging.⁷⁸

Regarding employment, official unemployment registers do not monitor the status of Roma, and Roma are in a very small number registered as unemployed in the employment services. The biggest source of income for the Roma population is self-employment, mostly board in area of collecting recyclable materials and recycling of waste. The number of employed Roma is very small, the public sector employs about 2 - 3% of Roma, while there are only a few Roma-owned enterprises and craft shops⁷⁹.

Discrimination is most pronounced toward the most vulnerable groups such as: refugees and displaced populations, the Roma as the most vulnerable ethnic minority, women, disabled people, young and older workers. Resolving the problem of work and employment in Bosnia and Herzegovina can be achieved with significant investments that would directly and indirectly affect the increase of new jobs. After that would come a fair employment issue which would apply to all citizens of BiH including Roma population⁸⁰.

Therefore, in Bosnia and Herzegovina, as well as in many Balkan countries, Roma are confronting every day with discrimination, prejudice and condemnation. For this reason, in this country it is necessary to adopt appropriate action plans of work, which is a task for the relevant entity and canton ministries of labor and employment, employment agencies, market and labor inspection, labor market, the Office of the coordinator for the implementation of the Development strategy of BiH (PRSP), Non-governmental organizations dealing with policy of Roma population, as well as other relevant institutions and legal entities that can greatly contribute to the improvement of the situation of Roma

77 Bosnia and Herzegovina Strategy for solving Roma issues, the Council of Ministers of Bosnia and Herzegovina, Official Gazette of BiH no. 67, September 2005.

78 The Initial report on implementation of the International Convention on the elimination of all forms of racial discrimination, January 2005, Sarajevo, BiH

79 The second periodical report of Bosnia and Herzegovina on the implementation of the International Covenant on economic, social and cultural rights, Ministry of Human Rights and Refugees, Sarajevo, June 2010

80 The seventh and The eighth periodical report on implementation of the International Convention on the elimination of all forms of racial discrimination (CERD) in Bosnia and Herzegovina, Ministry for Human Rights and Refugees, Sarajevo, 2008.

population in Bosnia and Herzegovina.

6.3 Croatia

6.3.1 Situation of persons with disabilities in Croatia

According to the data of State Institute of Statistics of Croatia and the last census (2001), there are 429.421 persons with disability living in Croatia, which is 9,7% of the total population. Although there is no official data, it is estimated that around 40.000 of persons with disability are employed and around 274.000 are beneficiaries of disability pensions. Around 15.500 children with disabilities are included in the process of education. By the end of 2008, there were registered 5.579 unemployed persons with disability at the Croatia Employment Service and during the 2008, 1267 were employed from the Employment Service. Because of the lack of public awareness, especially employers, on working possibilities and potentials of persons with disabilities, as well as insensitivity of entire society for needs of persons with disabilities, they have difficulties to get a job at the open labor market.

Insufficient development of the system of providing services to community, both specialist and those with the aim to increase independence of persons with special needs and integration, is forcing their families to great efforts and investments, especially when it comes to employment of these persons⁸¹.

Employment, education and professional guidance are key factors of social inclusion and economic independence of persons with disabilities, and this document states that it should be provided the legislation, measures and services that will guarantee equal possibilities of persons with disabilities in obtaining and retaining jobs. That will be achieved by conjoining anti-discrimination and measures of positive actions, as well as actualization of issues regarding the employment of persons with disabilities⁸².

According to persons with disabilities, legislative and institutional framework is pretty much well regulated: *the Ministry of family, defenders and international solidarity*, within which regulates the **Government Committee for Persons with Disabilities**, has the task to make proposals, opinions and professional explanations in the area of situation, protection and rehabilitation of persons with disabilities and their families, as well as to conduct activities aimed at their benefit. This body represents an advisory body of the Government of Croatia and its administratively professional jobs are within the work of the *Department for Persons with Disabilities*, which besides the monitoring of the implementation of the National Strategy of equalization of possibilities for persons with disabilities from 2007 – 2015, performs jobs related to improvement of the policy and promotion of rights of persons with disabilities. Within this Department there are:

81 "Poverty, unemployment and social exclusion", UNDP Croatia, Zagreb, 2006.

82 „The Action Plan of Council of Europe“ for promotion of rights and full participation in society of persons with disabilities in Europe 2006-2015.“, The Government Committee of the Republic of Croatia for persons with disabilities, Ministry of Family, Defenders and International solidarity, Zagreb 2006.

1. *The Department for affirmation of rights and improvement of policy for persons with disabilities* which deals with a draft of strategy proposals, programs, laws and other provisions related to persons with disabilities, and gives proposals for making provisions based on the monitoring and conduction of projects aimed at persons with disabilities;
2. *Department for cooperation with organizations and non-institutional care* – The main task is to monitor the situation of needs in the area of protection of persons with disabilities and to propose priority areas for satisfaction of needs of children with disabilities, youth and adults with disabilities in the community;
3. *Department for the implementation of the national strategy measures for persons with disabilities and other national documents.*

The Republic of Croatia has *Defense Lawyer for persons with disabilities (Anka Slonjšak)*, who, among other things, monitors the compliance of laws and regulations in the Republic of Croatia, related to rights and interests of persons with disabilities, performance of obligations arising from international documents related to the protection of rights and interests of PWD, and monitors the implementation of policies, national strategies and programs related to the protection of rights and interests of persons with disabilities.

*The National Strategy of unique policy for Persons with Disabilities 2003–2006*⁸³ states that the program of exhortation of employment must define a series of necessary measures for co-financing of employment, self employment and education of unemployed persons with disabilities, in order to reduce unemployment, especially unemployment of a certain hardly employing groups of persons.

According the *Law on Professional Rehabilitation and Employment of Persons with Disabilities*⁸⁴, employment of persons with disabilities is aimed towards their more equal participation in the open labor market. By it for employers are provided taxes and other incentives or inducements, and for persons who cannot get a job at the open labor market or remain to keep employment where employers use incentives, it is provided employment in special conditions, which include employment in specially established institutions or companies for employment and self-employment.

One of the goals of *the National Strategy for the equalization of possibilities for persons with disabilities 2007 – 2015*⁸⁵ is to ensure additional funds in order to create conditions for the employment of persons with disabilities, and the right to work and employment of persons with disabilities is one of the fundamental human rights, while prevention of exercise of that right is their violations and discrimination

83 The National Strategy of Equal Policy for persons with disabilities, 2003 – 2006, The Government of Republic of Croatia, Class: 562-01/02-02/01, Ur no: 5030104-03-1, Zagreb, 16th of January, 2003.

84 The Law on Professional Rehabilitation and Employment of Persons with Disabilities, Croatian Parliament, Number: 01-081-02-3687/2, Zagreb, 26th of November, 2002.

85 The National Strategy for equalization of possibilities for persons with disabilities 2007 – 2015, The Government of the Republic of Croatia, Class: 562-01/07-01/02, No: 5030108-07-1, Zagreb, 5th of June 2007.

Law on Amendments to the Law on professional rehabilitation and employment of persons with disabilities very well regulates rights and obligations of employers in Croatia in terms of employment of persons with disabilities, and according to this Law, government bodies, judicial authorities, local and regional governments, as well as public services, unbudgeted funds, legal entities owned or majority-owned by the Republic of Croatia (or local and regional governments), shall indicate on appropriate work place by their own choice, in the appropriate operating conditions, the following:

- Until 31st of December, 2005, they have at least one employed person with disability on every 50 employees, and do 31.
- Until 31st of December, 2008, at least one employed person with disability on every 42 employees⁸⁶

By these amendments it is accepted uninstitutional access of protection of persons with disabilities and avoided their employment in sheltered workshops, and also equal rights and incentives for employment and self-employment of persons with disabilities are established. In addition, persons with disabilities have provided priority in employment if they meet all requirements of the vacancy announcement for the job, which is a major step forward in improving the employment of these persons.

In the context of accession to the EU, from January 2010, Croatia started the implementation of IPA project (within Component IV) *“Development of Human Potentials”* related to the promotion of employment of persons with disabilities, for a period of one year. The overall objective of this project is to improve the social inclusion of persons with disabilities and their integration into the labor market, while its purpose is to promote and encourage employment of persons with disabilities at the regional level through the development and promotion of active labor market policy. By the end of the project, the aim is to achieve:

- Strengthening of capacities of local stakeholders to resolve problems of persons with disabilities in their access to the labor market;
- Empowering the labor market actors in promoting and highlighting the advantages of employing persons with disabilities;
- Develop a national web portal for information and other services to unemployed persons with disabilities and to implement a public campaign in order to promote the Web portal and the employment of persons with disabilities.

Continuous implementation of the policy that is being implemented in Croatia has contributed to improvement of the general situation of persons with disabilities, especially when we make a comparison of Croatia with other countries in the region. Of course,

⁸⁶ The Law on Amendments to the Law on professional rehabilitation and employment of persons with disabilities, Croatian Parliament, article 10, No: 01-081-05-770/2 Zagreb, 4th of March, 2005.

this does not mean that in this country, persons with disabilities are fully respected and not discriminated from employment (and in other spheres), but its legal and institutional framework, as well as state projects that this country is carrying out, are a positive step in improvement of these entities.

6.3.2 Position and employment of Roma in Croatia

Social position of Roma in the Balkans is very unconditional, and the reason is that in all areas, based on everything, they are victims of many prejudices and discrimination. So, unfortunately, it is the same situation in Croatia. According to the census from 2001, in Croatia there was 9.463 of Roma, but it is believed that there are around 40.000 or more of Roma in Croatia. In the Croatian Constitution, among 22 national minorities, since recently there are Roma, a few years ago was adopted two important documents for improvement of the situation of Roma in Croatia and their successful socialization (more in further text), but the condition in which Roma are living in Croatia are still very bad.

Mainly, Roma are excluded from the formal ways of employment. In some Roma settlements unemployment is up to 100%. Many of traditional Roma jobs are during the last century largely disappeared or are seriously weak because of industrialization (metal or wood processes). Most of Roma today are employed in a grey economy. Lower educational status and insufficient competitive professional skills have brought Roma problems in entering the labor market and keeping employment⁸⁷. According to the research “Better future”, conducted by the association of Roma women, 2001, on the number of employed and types of jobs that Roma are engaged, in the area of the city Zagreb, on the sample of 122 persons, 63 were women, only 1% of which responded they were employed full time. Most of the employed people (19%) were dealing with activities related to work in the house, while 16% of people were occasionally doing a collection of recyclable materials. Women, mostly, were housewives, and if they were working, it was mostly something related to the grey economy, like selling at the market and reselling of recyclable materials⁸⁸.

The Government of the Republic of Croatia in 2003 has adopted a very important document that deals with inclusion of Roma into society and improvement of their position, with the aim to exercise rights and eliminate all forms of discrimination against Roma – The National Programme for Roma, and in 2005 ***The Action Plan for the Decade of Roma Inclusion 2005-2015***⁸⁹. National Programme for Roma was created in cooperation with ministries, other organizations and Roma associations. The program highlights basic problems that the Roma population is facing and contains a number of short and long term measures in the field of employment, education, health, social care, housing and status issues, which should help in solving the problem and successful integration of

87 Poverty, unemployment and social exclusion“, UNDP Croatia, Zagreb, 2006, p. 24. and 49.

88 European Roma Rights Center (2005) Report on Position of Roma's Women in Croatia.

89 The National program for Roma, the Government of the Republic of Croatia, 2003, and the Action Plan of Decade for inclusion of Roma 2005-2015, the Government of the Republic of Croatia, 2005.

Roma in the society. In terms of employment in this program are set following objectives:

1. Higher employment of Roma;
2. Employment of more Roma in public works;
3. Inclusion of Roma in programs of vocational trainings;
4. Employment of consultants for mediation in employment of Roma;
5. Co-financing of employment of Roma.

In the policy aimed at promoting the employment of Roma, it is necessary to work on the effectiveness in implementation of measures of the so-called positive discrimination in employment from strategic programs and plans for Roma, and particularly to reinforce the system of information of Roma about rights and measures from the program and to introduce a system of control measures of abuse by employers and / or users. Also, it is necessary to introduce a quality and permanent education, which is crucial in increasing employment rates in the Roma community, and in this regard should review the implementation of educational measures and programs of the Government of Croatia⁹⁰.

In accordance with the presented analysis, it is obvious that the social status of Roma in Croatia is pretty bad, about the same as in all areas in the region, which causes a high degree of discrimination and prejudice against this national minority. Living conditions in which they live are extremely unfavorable, but according to the progress of the education of Roma children in primary schools, logically, it would be expected that such a policy positively reflects the sphere of employment of this population in the Republic of Croatia.

VII Conclusions and Recommendations

7.1 Conclusions

When it comes to persons with disabilities, the situation in Montenegro is not at a high level, but also it can't be said that it is completely bad. Our country has adopted certain laws, but their application is not adequate and purposeful, so the unemployment degree of persons with disabilities is growing from year to year.

Protection and treatment of people with disabilities are proceeding within institutions under the jurisdiction of the state, and extends through the Law on Education, Law on Social and Child Protection, Law on Pension and Disability Insurance, Law on Employment, Law on the Movement of Persons with disabilities with the help of a dog helper, Law on Professional Rehabilitation and Employment of People with Disabilities, etc, while the Constitution of Montenegro, the Criminal Code and the Anti-Discrimination Act prohibit any form of discrimination against these persons and provide penalties for violations of those measures.

⁹⁰ "Employment of Roma in the Republic of Croatia: Estimation of the situation, needs and recommendations", iDEMO Institute for democracy, Jagoda Novak, Andrea Feldman, Biserka Tomljenovic, Smiljana Leinert Novosel, January, 2007.

Montenegro has adopted a large number of necessary laws and other relevant documents which treat persons with disabilities and which are in accordance with principles and standards of the EU and gave a strong contribution to their employment. However, in practice, there are still great problems in employment of persons with disabilities as well as in exercise of their fundamental human rights, which was presented in the previous text on the case of Marijana Mugosa.

Based on the review of legislative, institutional and strategic framework, when it comes to policies of employment of persons with disabilities, the conclusion is that the main problem is the lack of adequate mechanisms in implementation of laws, as well as in control of the implementation. That is related to:

- 1) Inadequate performance of the monitoring of the implementation of the Labor Law;
- 2) Lack of institutes for helping, empowering and motivating persons with disabilities to establish their own business;
- 3) Ineffective system of stimulation of employment of persons with disabilities;
- 4) Small number of campaigns and other public events which polarize employment of persons with disabilities;
- 5) Insufficient degree of cooperation between state and international institutions in the field of improvement of overall position of persons with disabilities in Montenegro.

Of course to solve these problems is not easy, but initially it is necessary to take the first steps and set a strong foundation in solving the given default, and in that sense we take the example of Croatia, which has Prvobraniteljicu for persons with disabilities (Ms. Anka Slonjšak), so the scope of its work, Article 11 says that “all government bodies, local and district (regional) governments, legal and natural persons shall Ombudsman for Persons with Disabilities to ensure availability and access to all data, information and documents relating the rights and protection of persons with disabilities. Of course to solve these problems is not easy, but initially it is necessary to take first steps and set a strong foundation in solving defaults, and in that sense we should follow the example of Croatia, which has a lawyer for persons with disabilities (Ms Anka Slonjsak), so in the competence of her work, Article 11 says “all government bodies, local and district (regional) governments, legal and physical entities shall Ombudsman for Persons with Disabilities to ensure availability and access to all data, information and documents relating the rights and protection of persons with disabilities. “

Also, the lawyer for persons with disabilities has access to the premises and in the implementation of care toward persons with disabilities who reside or work with physical and legal entities(Article 12), and then a report on insight sends to the supervisory authority. If the supervisor does not submit a report on measures taken to the lawyer within 30 days from receiving the report, the lawyer will inform the Croatian Government and the medias. This is an example of positive practice, which Montenegro should certainly follow, because the statistics show that the current legal framework is insufficient and in

this context must be improved and undertake additional measures in implementation of the same.

Besides establishing adequate law Enforcement mechanisms and control, it is necessary to work on social inclusion, i.e social rehabilitation of persons with disabilities, and in this process should be included the whole community. In that view, it is necessary to concentrate on public awareness campaigns and public events which will popularize the employment of persons with disabilities, and in that sense contribute raising of awareness of the whole community to respect their rights and possibilities. The aim of this measure is to prevent complete social isolation of persons with disabilities, with active participation of the narrower and wider environment, in order to provide PWD with chance to lead a healthy life in atmosphere of social comprehension, tolerance and support. Society is a factor throughout the process and should provide material, spatial and personnel support to these entities, also a non-discriminatory attitude towards them, which of course, involves understanding and sensibility. On the other hand, people with disabilities, despite their handicap, have the ability and desire to give a great contribution to the development of their community, so if an environment would be created providing equal opportunities for persons with disabilities, both sides would gain.

7.2 Recommendations

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

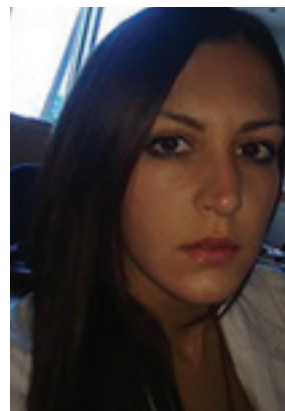
AD Center „EKVISTA“ was established on the 29th of May 2009, in Podgorica at the premises of the Association of Youth with Disabilities in Montenegro. Vision of AD Center is Montenegro, as a society in which every single individual has freely realized their human rights and freedom. The mission of AD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

Biographies

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.



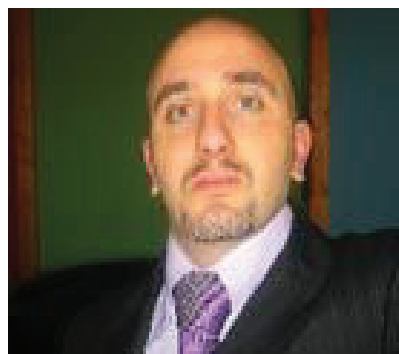
Daliborka Knezevic, one of the founders of the Center for



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**