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**Research on Inclusion
of Persons with Disabilities in Employment**

RECOMMENDATION FOR SYSTEMIC CHANGES REPORT

**PROJECT #MYWORK
- ECONOMIC OPPORTUNITIES FOR PEOPLE WITH DISABILITIES**



Acronyms	3
1. Summary	4
2. Introduction	6
3. Background of the Study Area and Statement of the Problem	8
<i>3.1. Numerous Actors Involved in Employment Issue</i>	<i>10</i>
4. Review of Selected/Related Literature.....	11
5. Relevance to the Current Legislations and Strategies in Both Entities	16
<i>5.1. Review of Legal Framework / International Standards.....</i>	<i>16</i>
<i>5.2. Disability on National or Entity Level/Non-discrimination Legislation</i>	<i>19</i>
<i>5.3. National Labour Laws and Related Legislation.....</i>	<i>20</i>
<i>5.4. Legislation on Professional Rehabilitation and Employment of Persons with Disabilities at the Entity Level.....</i>	<i>22</i>
<i>5.5. Employment, Incentives and Retraining Programs in FBiH</i>	<i>26</i>
<i>5.6. Employment, Incentives and Retraining Programs in RS.....</i>	<i>29</i>
<i>5.7. Legal Definition of Legal Entities that Employ PwD under Special Conditions.....</i>	<i>32</i>
<i>5.8. Company for Employment of PwD.....</i>	<i>32</i>
<i>5.9. Occupational Workshop</i>	<i>33</i>
<i>5.10. Work Center.....</i>	<i>34</i>
<i>5.11. Self-Employment.....</i>	<i>34</i>
<i>5.12. Disability Strategies in Both Entities</i>	<i>35</i>
<i>5.13. Brčko District and Employment of Persons with Disabilities</i>	<i>38</i>
<i>5.14. Employment Opportunities for People with Disabilities in Local Communities ...</i>	<i>38</i>
6. Conclusions	42
7. Recommendations	46
8. Bibliography.....	48

Acronyms

BiH	<i>Bosnia and Herzegovina</i>
CRPD	<i>Convention on the Rights of Persons with Disabilities</i>
CSO	<i>Civil society organization</i>
DPO/DPOs	<i>Disabled people's organization/organizations</i>
EU	<i>European Union</i>
FBiH	<i>Federation of Bosnia and Herzegovina</i>
PIN	<i>People in Need</i>
PwD	<i>Person with disability/People with disabilities</i>
RS	<i>Republika Srpska</i>

1. Summary

The *Recommendation for Systemic Changes Report* is the first of two related reports derived from the research on inclusion of persons with disabilities in employment, conducted in the period from November 2020 to December 2020. The research was carried out within the project: “My Work - Economic Opportunities for People with Disabilities” in Bosnia and Herzegovina. People in Need (PIN) is the leading project partner, and implementing partner organizations on the project are Nešto Više, ProReha and Sumero. The donor agency responsible for funding the project is the Czech Development Agency.

The research included an analysis of the existing legislation related to the employment of persons with disabilities and current practices in the employment of PwD as well as their experiences. Based on the analysis of the existing legislation, but also the findings obtained from the research of existing practice, this report was prepared. The report provides an overview of the situation and recommendations for the systemic changes that will need to be implemented in order to improve the employment situation of persons with disabilities.

The findings of this research show that the position of PwD when it comes to employment opportunities is almost the same in FBiH and RS, with some exceptions. In practice, it is seen that a radical amendment of the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities in both entities is needed in order to open greater and better employment opportunities for persons with disabilities.

It is necessary to harmonize other laws with the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities in order to enable the full implementation of legal provisions. We noticed that there are no systems and mechanisms

for monitoring the employment and quality of jobs currently offered to people with disabilities.

The current system does not enable equal inclusion in the process of employment of PwD with other citizens in BiH, but enables discrimination and social isolation. The conclusions and recommendations describe in detail the necessary changes, which will lead to the establishment of a better system of support in the employment of PwD.

2. Introduction

The purpose of the *Recommendation for Systemic Changes Report* is to provide a clear review of the current employment situation of persons with disabilities in Bosnia and Herzegovina, considering both employment models: open labor market employment and employment under special conditions (support for the employment of PwD), and identify the key points which need to be addressed through systematic changes in order to improve the number of employed persons with disabilities but also their work conditions.

Our intention was to investigate how persons with disabilities benefit from existing government policies, training, rehabilitation activities and financial subsidies, what their needs are and what barriers to employment they face.

At the beginning of the research, we asked ourselves: “What are real reasons for inadequate employment of persons with disabilities, and how we can affect them, regardless of their complexity and mutual entanglement?”

We also have to approach this issue without the illusion that there is an instant solution, but a healthy dose of optimism is needed toward a result that we can achieve when we know the way and the obstacles we have to deal with.

The research we conducted covered the present state of inclusion of persons with disabilities in employment in both entities and eight target municipalities: Sarajevo, Banja Luka, Mostar, Brčko, Bihać, Trebinje, Vitez and Zenica. Considering that the issue of employment is basically entity level politics and that we have targeted municipalities from both BH entities and Brčko district, the results of this research can be applied at the state level. More attention to targeted municipalities we paid through research special employment programs on the municipality level (often self-employment support programs).

Recommendation for systemic changes report is the result of a detailed analysis of the law, regulations, strategies and another related literature concerning the employment of PwD to identify gaps in the regulatory documents and their practical implementation and legal obstacles for employment of persons with disabilities at the entity national and international level. This report is directly linked with another document named “Report on the state of inclusion of PwD in employment” – in which we present quantitative and qualitative data collected through interviews with employers and representatives of institutions, analysis of the questionnaire filled out by persons with disabilities and responses obtained from PwD organizations. Although the basis of this document is an analysis of the existing legislation, the findings obtained through the research of employment practice (presented in detail in the document "Report on the state of inclusion of PwD in employment") are included in the development of conclusions and recommendations. Our conclusions are supplemented by data obtained in semi-structured interviews with representatives of the Entity Funds for Vocational Rehabilitation, Training and Employment of Persons with Disabilities to obtain a more complete picture of the functioning of the PwD employment system and give more precise recommendations for systematic solutions.

3. Background of the Study Area and Statement of the Problem

Based on Report on social inclusion, persons with disabilities are recognized as the most endangered, marginalized and most excluded group in society in Bosnia and Herzegovina. In our society, persons with disabilities still face the impossibility of practicing basic human rights and fulfilling basic vital needs.

The right to work, guaranteed by the highest law acts of Bosnia and Herzegovina (constitutions, legislations and laws) as well as international conventions that Bosnia and Herzegovina obliged, seems like an area that – in the past 20 years – we have made insignificant progress in. At the same time, numerous analyses show that this particular right - the right to work - is the key factor in significant progress toward social inclusion and improvement of the quality of life of persons with disabilities. The issues of employment and revenue generation create the fact that persons with disabilities are social group faced with the worst poverty in Bosnia and Herzegovina. Almost 2/3 of the total number of adult persons with disabilities lives under or close to the official poverty line. Besides that, we must acknowledge that the right to work has a significant social and psychological function in a person's life, besides economic importance. Employment and work present important roles in a person's life because of their impact on social interaction, a person's time schedule, identity and self-respect, and sometimes even self-actualization. (Jahoda, 1982., in Kozjak, 2018.). Employment is the best defence from social exclusion and one of the main ways to include persons with disabilities in society

entirely. Employment is the main avenue of inclusion of persons with disabilities in all life's streams, their full and real integration.¹

Thanks to the obviously big significance of employment issue for overall improvement of the status of persons with disabilities, this topic is the usual object of focus in Organizations of persons with disabilities. Still, despite that fact, it looks like in the past 20 years, no progress has been made in that field. The employment of persons with disabilities, in fact, is a very complex issue that requests long-term systematic solutions and solutions based on positive practices. We consider that complexity and stratification of this issue, mixed with the engagement of numerous actors, were the reasons for poor progress in past years. Because of a single-sided involvement, most organizations of persons with disabilities did not bring significant progress in practice, even though those actions were well-created, aimed and implemented with a high degree of motivation.

It seems that the existing mechanisms created for support or to provide greater employment of persons with disabilities do not deliver satisfactory results.

With an aim to get the most precise roadmap aimed toward progress in persons with disabilities employment, we must consider the complexity of this process. It is significantly influenced by a wider number of actors, as well as all changes related to the domain of social policy and the general attitude of society towards persons with disabilities.

¹ Report on the State of Disability in Bosnia and Herzegovina, Working Group of Representatives of Member Organizations of the Network of Organizations of Persons with Disabilities of Bosnia and Herzegovina, 2012.

3.1. Numerous Actors Involved in Employment Issue

Although often regarded as a relationship between employer and employee, or supply and demand, employment of people is not just that simple. The influence of **institutions**, with the role of helping persons with disabilities to level their status with other employment-seekers, is one of the most significant points. Also, since it is a social group that depends on many social factors (e.g. architectural and communication accessibility, lack of support services, inability to use public transport) so that individuals can stand up for their rights, a significant role in advocating for employment rights have **organizations of persons with disabilities**.

Employers are certainly an obvious actor in the employment story, but here we should keep in mind the differences that exist between real and public sector employers, as well as the fact that the general atmosphere of low awareness of employer about abilities of persons with disabilities to work and to be productive. They most often come from social circles that have no special contact with people with disabilities. The question that is important to ask here is: Does the employment of persons with disabilities positively impact employers' attitudes?

The fourth and most important actor in the whole process is a **person with disability** on the labor market, often torn between the desire to work and insecurity in their own abilities and the possibility of being accepted in the work environment. Also, they are often burdened by long-term dependence on social assistance and overprotection in families, which are all results of social isolation. We can say that the unemployment of people with disabilities is both a cause and a consequence of their social exclusion. Given that we have identified that the employment process in general, and the employment of persons with disabilities in particular, is not possible without the intervention of state institutions, in this report, we will focus on the analysis of the state employment support

system. Our focus has been on laws, policies and institutions designed to regulate the employment of people with disabilities in order to discover what it is in the system that we can improve and thus lay a better foundation for all other actions related to the employment of PwD.

4. Review of Selected/Related Literature

The right to work of persons with disabilities is a topic that has been recognized as very important for the overall position of persons with disabilities in society. By strengthening the PwD movement, this issue has been the subject of many projects and actions, mainly conducted by persons with disabilities organizations (DPOs) but also by professionals who work with persons with disabilities (rehabilitators, psychologists, social workers etc.)

Existing literature emphasizes many positive effects of employment on persons with disabilities, both at the individual level and on the overall position of persons in this social group. In addition, there is a positive impact of the employment of people with disabilities on the whole community. The positive effects of employment on economic status, raising self-confidence, socialization, and overall quality of life are stated through literature. (Rački, 1997).

Nevertheless, all considerations and analysis of this issue indicate an unsatisfactory share and position of persons with disabilities in the labor market. Many authors believe that the unfavorable position of persons with disabilities, in relation to the overall population, is, among other things, a consequence of the negative attitudes of society towards persons with disabilities in general. (Mihic and Kiš-Glavaš, 2009., prema: King, 1993.; Zovko, 2000.; Žunić, 2001.; Russel, 2002.).

In this analysis, we are putting more attention on review of the available research and reports resulting from DPOs' observations on this issue because we prefer to step out forward to an inclusive, social model of disability and we want to put a spotlight on the needs of persons with disabilities in Bosnia and Herzegovina. We will summarize and consider the results of the efforts of DPOs to make an impact in this field in order to assess, as accurately as possible, the current situation regarding the inclusion of persons with disabilities in the labor market.

In a review of the articles, documents and reports in this area, we note that the employment of people with intellectual disabilities is mainly addressed as a separate topic in relation to the employment of people with disabilities caused by sensory impairment or mobility system impairment. We will examine in more detail the justification of this approach, as well as the attitude of the representatives of persons with disabilities during the researcher that we have planned.

Most analyses on the employment of persons with disabilities conducted in Bosnia and Herzegovina in the previous period take as a starting point and reference value the principles and rights prescribed by the Convention on the Rights of Persons with Disabilities, presented in the following chapter. This is understandable given that the aim of the disability movement is to achieve norms and practices that are as consistent as possible with the Convention.

A comparative analysis of previous research that dealt with the issue of employment of persons with disabilities shows that the starting point for regulating this area must be adequate legislation. All previous analyses agree that the decentralization of regulations in BiH, especially at the level of the Federation of BiH, is an aggravating circumstance for exercising employment rights.

In addition to reviewing the laws, analyses to date have identified many factors that influence the fact that, in practice, the employment of people with disabilities is very unsatisfactory. This refers to the number of persons employed/unemployed persons with disabilities, as well as the manner of employment, working status, and working conditions. In addition to the responsibilities of institutions and employers, the previous analysis identified activities that can be undertaken by associations of persons with disabilities, but not without coordinated action with institutions and with each other. One example is the preparation and strengthening of persons with disabilities for labor market as we can see in the report *Employment of people with Down syndrome: challenges and perspectives*². Realization of the right to work and career development of a young person with Down syndrome depends not only on the legal basis, the amount of financial incentives for employment, the openness of the labor market, but also on the preparation of a young person for the labor market. (Kafedžić; Bjelan-Guska; Smajović; Muharemagić, 2019).

The topic that we consistently recognize in the previous analysis is the importance of coordinated action of institutions, specifically the entity funds for professional rehabilitation and employment with the movement of persons with disabilities.

"But in order to make real progress in the process of recruiting PwD, it is necessary to establish a systemic connection of all actors in the process. Now, this cooperation is based on the goodwill of individuals from institutions involved in this process." (Bečić, 2018).

However, there is a lack of information on whether the recommendations affected the actors in the process and whether and in what way this cooperation has improved. In this

² Kafedžić, L., Bjelan-Guska, S., Smajović, A., Muharemagić, E., *Zapošljavanje osoba s Down sindromom: izazovi i perspektive*, Udruženje Život sa Down sindromom Federacije Bosne i Hercegovine; Sarajevo 2019.

research, we intend to explore this issue by collecting data from representatives of institutions and organizations of persons with disabilities.

In the analysis of the employment of PwD, the issue of education is often considered as part of the effort to offer an answer to the question of whether PwD possess the competencies needed in the labor market. This approach is justified, especially in the analyses done earlier, taking into account the widespread problem of exclusion of persons with disabilities from society and the huge problem of access to education, which has been actively but not fully addressed yet.

In this analysis, we will address the issue of competencies of persons with disabilities as a possible cause of underemployment, but we will not go deeper into the analysis of the education system. For more information on this topic, we refer to the Research on the educational needs of persons with disabilities in Bosnia and Herzegovina and Montenegro with the aim of easier employment and greater competitiveness in the labor market from 2018.³

Although most analyses of the employment of PwD in society come from civil society organizations, most often associations of persons with disabilities, the exception is the Performance Audit Report "Professional Rehabilitation and Employment of Persons with Disabilities" prepared by the Main Audit Office of Republika Srpska.

The audit covered the period from 2015 to 2018 and according to the report, with the main goal to answer the question: Whether the existing level of resources engaged for the purposes of rehabilitation and training of PwD, as well as financial incentives and refunds to employers, ensured an increased the employment of PwD?

³ Žarković, T., Mandić Đokić T., Research on the educational needs of persons with disabilities in Bosnia and Herzegovina and Montenegro with the aim of easier employment and greater competitiveness in the labor market, 2018. P.O.W.E.R Project

This audit found that in the area of professional rehabilitation and employment of persons with disabilities, an effective system has not been established that would increase employment of persons with disabilities.

*"Competent institutions have not established records on the total number of persons with disabilities in Republika Srpska, nor the number of employed persons with disabilities. There is no single, complete record of their age and qualification structure, and type of disability."*⁴

The report provides recommendations in terms of reviewing the adequacy of the regulatory framework, the Fund's capacity and reviewing the monitoring and reporting system for the area of vocational rehabilitation and employment of persons with disabilities. During the research, we have determined that there is an initiative (in the draft phase) to amend the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities Occupational Rehabilitation and Employment of Persons with Disabilities, based on the Audit Report.

⁴ Glavna služba za reviziju javnog sektora Republike Srpske; Profesionalna rehabilitacija i zapošljavanje lica sa invaliditetom (eng. Main Audit Office of Republika Srpska; Performance Audit Report Professional Rehabilitation and Employment of Persons with Disabilities) Banja Luka, 2019.

5. Relevance to the Current Legislations and Strategies in Both Entities

Employment is central questions to the ability of persons with disabilities to maintain a decent standard of living for themselves and their families and is an important factor influencing their opportunities to participate fully in society.

The opportunity to work is considered as one of the most important ways in which people can make their individual contributions to their communities. However, despite existing national, regional and international laws, and despite the activities of international bodies and persons with disabilities and their organizations, the right to work for persons with disabilities is still very often denied.

5.1. Review of Legal Framework / International Standards

Every individual has the fundamental right to work⁵. This right is essential for realizing other human rights and constitutes an inseparable and inherent part of human dignity.

It contributes at the same time to the survival of the individual and to that of his or her family and, insofar as work is freely chosen or accepted, to his or her development and recognition within the community.

European Convention on Human Rights, prohibition of discrimination⁶

The enjoyment of the rights and freedoms outlined in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion,

⁵ Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. (Art., 23 UDHR 1948.)

⁶ European Convention on Human Rights, prohibition of discrimination (Art. 14)

political or other opinions, national or social origin, association with a national minority, property, birth or another status.

The Convention on the Rights of Persons with Disabilities (CRPD)⁷ was the first Convention to introduce the social model of disability and change the direction of how individuals with disabilities are included in the workplace. The CRPD does not create new rights. Rather, it takes existing rights and interprets them in the context of persons with disabilities.

CRPD Summary: Article 27 Work and Employment⁸

- Recognizes the right of persons with disabilities to work on an equal basis with others;
- Right to work includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market
- Right to work requires a work environment that is open, inclusive and accessible to persons with disabilities.
- State parties must protect and promote the realization of the right to work, including for persons who acquire a disability during the course of employment;

Steps to facilitate the realization of the right include:

1. prohibiting discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, the continuation of employment, career advancement and safe and healthy working conditions;
2. protecting the rights of PwD, on an equal basis with others, to provide just and favorable conditions of work, including equal opportunities and equal remuneration

⁷ The Convention on the Rights of Persons with Disabilities (CR Art. 27 Work and Employment)

⁸ CR Art. 27 Work and Employment (<https://www.un.org/convention-in-brief.html> website accessed at: 10.12. at 19:15)

- for work of equal value, safe and healthy working conditions, including protection from harassment, and the address grievances;
3. ensuring that PwD are able to exercise their labour and trade union rights on an equal basis with others;
 4. enabling persons with disabilities to have effective access to general technical and vocational guidance programs, placement services, and vocational and continuing training;
 5. promoting employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
 6. promoting opportunities for self-employment, entrepreneurship, the development of cooperatives and for starting one's own business;
 7. employing persons with disabilities in the public sector;
 8. promoting the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programs, incentives and other measures;
 9. ensuring that reasonable accommodation is provided to persons with disabilities in the workplace;
 10. promoting the acquisition by persons with disabilities of work experience in the open labour market;
 11. promoting vocational and professional rehabilitation, job retention and return-to-work programs for persons with disabilities.

5.2. Disability on National or Entity Level/Non-discrimination Legislation

Constitutional provisions or specific legislation prohibiting discrimination are now regarded as an essential element of the response to discrimination in employment and occupation. The object of non-discrimination legislation is to prohibit discrimination on the grounds of disability, as well as other grounds. Bosnia and Herzegovina, at the national and entity level, has a good non-discrimination policy and legal framework (as you can see below). However, Constitutional provisions alone often have very low or limited impact due to lack of implementation in the field.

1. Constitution of BiH (Annex 4 of the Dayton Peace Agreement)⁹
2. FBiH Constitution with Amendments¹⁰
3. Constitution of Republika Srpska¹¹
4. Law on Prohibition of Discrimination¹²
5. Decision on acceptance of the "Standard Rules for Equalization of Opportunities for Persons with Disabilities", Council of Ministers of BiH¹³
6. Information on the activities of the Council of Europe for the Improvement of the Situation of Persons with Disabilities with the Council of Europe Action Plan for the Promotion of the Rights and Full Participation in the Society of Persons with Disabilities 2006-2015, Council of Ministers of BiH¹⁴

⁹ Zbirka Ustava BiH, Službeni list BiH, 1997.g.

¹⁰ Službene novine FBiH 1/94,13/97,16/02,22/02,55/02,18/03,63/03,9/04,20/04,33/04,71/05,72/05,88/08

¹¹ Ustav Republike Srpske – Službeni glasnik Republike Srpske, broj 3/9

¹² Službeni glasnik BiH br. 59/09

¹³ Službeni glasnik BiH br. 41/03

¹⁴ Informacija usvojena na sjednici Vijeća ministara 20.8.2009.g.

5.3. National Labour Laws and Related Legislation

Rights covered by labor laws FBiH Labor Law,¹⁵ Labor Law of Republika Srpska,¹⁶ Law on Retirement and Disability Insurance in FBiH¹⁷ and RS¹⁸ are all the same for all citizens.

It should be noted, one of the first obstacles people with intellectual disabilities face when seeking employment is **deprivation of legal capacity (guardianship)**. BiH legal system differentiates two kinds of legal capacity: **legal recognition/standing and legal capacity to act**:

- **Legal recognition/standing presents** a broader capacity, and in general, provides for an individual to be a bearer of rights and responsibilities. It is attained by birth and ceases after an individual dies.¹⁹

- **Legal capacity to act**, on the other hand, refers to the ability of an individual person to give his or her own actions concrete legal effects by his or her own free will. It marks an ability of self-made decision-making process (determination) on rights and obligations, capacity to make own free will statements by which a person acquires certain rights, accepts certain liabilities/responsibilities, or enters into different legal relations. This kind of capacity is, as a general rule, attained once a person becomes an adult, turning the age of 18.²⁰

Several laws in BiH at the entity level regulate the institute of deprivation of legal capacity (guardianship). But we will focus on laws Retirement and Disability Insurance in

¹⁵ Službene novine FBiH br.62/15

¹⁶ Službeni glasnik RS br. 1/16

¹⁷ Zakon o penzijskom i invalidskom osiguranju FBiH "Službene novine FBiH", br. 13/18

¹⁸ Zakon o penzijskom i invalidskom osiguranju ("Sl. glasnik RS", br. 134/2011, 82/2013, 96/2013 - odluka US i 103/2015)

¹⁹ Article 12 - Equal recognition before the law UN Convention on the Rights of Persons with Disabilities Str 6

²⁰ Country specific report on legal capacity – EU-PERSON Bosnia and Herzegovina

FBiH²¹ and RS,²² because they directly impact our research and the possibility of employment of persons with disabilities.

As we mentioned above, **Legal capacity to act** is acquired after reaching the age of 18. and entails the ability to independently decide on rights, but also our obligations in the legal sense. One of the conditions for an adult to inherit the right to a family pension is the deprivation of legal capacity. And that is the main reason why a large number of parents are initiating proceedings to deprive their child of legal capacity, to provide some financial security in the future. An adult person deprived of legal capacity (fully or partially) can restore their legal capacity once the reason for deprivation of legal capacity ceases to exist. Still, it is a very time consuming, expensive and challenging process. Complete deprivation of legal capacity entails serious legal consequences, as a person is left without many rights (for example: the right to marry, unable to exercise parental care, the right to adopt a child, the right to vote, the right to make independent decisions, etc.) One of the consequences of deprivation of legal capacity is the inability of a person to sign a contract of any kind of employment to work or to start a business. This ultimately means that the person cannot get a job and establish an employment relationship to support oneself. The second research paper *Report on the State of Inclusion of PwD in Employment* presents data regarding attitudes, experiences and opinions of organizations of persons with disabilities - to what extent the institute of Legal capacity affects the employment and living conditions of persons with disabilities, whether any organization of persons with disabilities tried to raise the issue of changing the institute of legal capacity and what the obstacles are.

²¹ Službeni glasnik RS br. 1/16

²¹ Zakon o penzijskom i invalidskom osiguranju FBiH "Službene novine FBiH", br. 13/18 (čl. 73)

²² Zakon o penzijskom i invalidskom osiguranju ("Sl. glasnik RS", br. 134/2011, 82/2013, 96/2013 - odluka US i 103/2015) (čl 72)

5.4. Legislation on Professional Rehabilitation and Employment of Persons with Disabilities at the Entity Level

The area of professional rehabilitation and employment of persons with disabilities is regulated by the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities at the entity level (RS²³ and FBiH²⁴).

These Laws regulate the rights, conditions and procedure of professional rehabilitation, training and employment of persons with disabilities with reduced working capacity, the establishment of organizations and activities of institutions, companies and other organizations dealing with professional rehabilitation and employment of persons with disabilities. Under these Laws, persons with disabilities can be employed under special conditions through self-employment, in specialized companies registered for the employment of persons with disabilities or under general conditions on the open labor market.

Both entity laws are based on a quota system where for every **16 employees** the employer is obliged to employ one person with a disability. Otherwise, he/she is obliged to pay a special contribution (i.g. tax). This means that if the employer has 16 employees, the 17th employee must be a person with a disability under the Laws of both entities.

If the potential employer does not fulfil the obligation to employ a person with disability, he is obliged to pay a special contribution in the amount of 25% of the average salary **in FBiH** per unemployed person with disability per month that he was obliged to employ by law. (*see illustration no. 1*)

²³ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida"RS Službeni glasnik RS br. 98/04, 91/06, 12/09, 39/09, 82/15

²⁴ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i upošljavanju osoba s invaliditetom FBiH Službene novine FBiH br.09/10



illustration no. 1

If business entities (companies) have **less than 16 employees**, they are not required by law to employ persons with disabilities. But they are also obliged to pay special contributions in the amount of 0.5% of gross salaries of all employees who are employed by the business if they do not employ at least one person with a disability (see *illustration no. 2*).



illustration no. 2

In the Federation, the payment of special contributions is not regulated through the Law on Contributions of the FBiH, payment is made directly through the Fund for Vocational Rehabilitation, Training and Employment of Persons with Disabilities FBiH. The calculation of the special contribution is done through a web application (<https://ap.fond.ba/>) on the Fund's website, to which employers apply independently. The special contribution is paid directly to the account of the Fund. If employers do not voluntarily register via the web application and do not make the payment, then the collection is made through lawsuits. It is necessary to ensure that the collection of the special contribution in the future is done through the system of taxes and contributions of the FBiH. In this way, the payment of the special contribution would be more transparent. It would be easier to raise funds because a special contribution would be paid along with other taxes and contributions, through the tax administration system. Also, the fund would not spend huge funds on lawsuits.

In Republika Srpska, the employment quota is the same, but the special contribution rate is much lower. So, if a business entity in the RS does not fulfil the obligation to employ persons with disabilities, it is obliged to pay a special contribution in the amount of 0.2% of the paid monthly gross salary of all employees.²⁵ (*see illustration no. 3*)

²⁵ "Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida" RS čl.26



illustration no. 3

The business entities that have fewer than 16 employees are not required to employ a person with a disability, but they are required to pay a special contribution in the amount of 0.1% of gross salaries of all employees that are employed by the company, if they do not employ at least one person with a disability. (see illustration no. 4)



illustration no. 4

According to this Law in RS²⁶, the Tax Administration of Republika Srpska controls the payment of the special contribution. Also, note the differences in employment obligation in the public sector of RS and FBiH:

"Employment of persons with disabilities under special conditions is considered mandatory in state bodies, public institutions and companies owned by the RS..."²⁷

"Under the general conditions, persons with disabilities are employed on the open labor market, in state bodies, judicial bodies, local government bodies, public services, institutions, funds, public companies, and other legal entities of the FBiH."²⁸

While in the RS all public institutions are obliged to employ PwD under special conditions, in the FBiH, employment in public institutions is under general conditions, and they are only encouraged to give priority to PwD in employment, as you can see above.

5.5. Employment, Incentives and Retraining Programs in FBiH

The right to apply for programs and incentives of the Fond in FBiH have:

- Persons with disabilities who, according to the Law, have the right to apply for incentives, i.g. to have their employer apply for their workplace in their name, under the Law are:
 - o persons with disabilities whose degree of disability is **60%** or more,
 - o persons with at **least 70%** of physical impairment, if that impairment has the consequences of reduced working capacity in accordance with the Law, or if they are persons with moderate or mild mental retardation (intellectual disabilities).

²⁶ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida"RS čl.27

²⁷ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida"RS 15

²⁸ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i upošljavanju osoba s invaliditetom" FBiH Čl.15

The money raised through quota systems is transferred into entity Funds to support various programs, employment support, retraining etc.

The financial incentive for first employment²⁹ is currently the only measure to which businesses that employ under **general conditions (open labor market)** can apply.³⁰

The financial incentive for first employment can be used for the following purposes:

- Co-financing the salary of a newly employed person for a maximum of 12 or 18 months, depending on the type of contract (fixed or indefinite). For employers who employ under general conditions, this is the amount of gross salary, and for employers who employ under special conditions, it is the amount of the net salary. The amount of financial incentive varies depending on the degree of disability of the person with a disability.
- Workplace adjustment
- Means of work, machines, etc.
- Procurement of assistive devices
- Co-financing of salary to assistant in the workplace if an assistant is needed³¹

Employment programs under special conditions - Who can apply to these programs:

Companies for employment of persons with disabilities; protective workshops; independent craftsmen.³²

²⁹ Pravilnik o raspodjeli sredstava Fonda za profesionalnu rehabilitaciju i zapošljavanje osoba sa invaliditetom za dodjelu novčanog stimulansa za novo zapošljavanje osoba sa invaliditetom, Article .5 (Decision on classification by the field of work is required)

³⁰ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i upošljavanju osoba s invaliditetom" FBIH Čl.54

³¹ Pravilnik o raspodjeli sredstava Fonda za profesionalnu rehabilitaciju i zapošljavanje osoba sa invaliditetom za dodjelu novčanog stimulansa za novo zapošljavanje osoba sa invaliditetom čl.2

³² Pravilnik o raspodjeli sredstava za finansiranje/sufinansiranje programa održivosti zaposlenosti, razvoja privrednih društava za zapošljavanje osoba sa invaliditetom i zaštitnih radionica, te programa profesionalne rehabilitacije osoba sa invaliditetom – čl. 4. izmjena od 20.3.2020.

- Lot 1: For financing / co-financing programs for maintaining the existing level of employment of persons with disabilities;
- Lot 2: For financing or co-financing programs for the development of companies for the employment of persons with disabilities and protective workshops;
- Lot 4: financing or co-financing of the sustainability program of employment of persons with disabilities who are engaged in self-employment or agricultural activity;
- Lot 5: For financing / co-financing programs for maintaining the existing level of employment of persons with disabilities in organizations of persons with disabilities

Funds for additional training / retraining³³ - Who can apply to these programs: companies for employment of persons with disabilities; protective workshops; secondary schools and other educational institutions, persons with disabilities can apply independently for the program of professional rehabilitation or additional retraining.

- Lot 3: For financing or co-financing professional rehabilitation programs for persons with disabilities;
- 3.1. Professional rehabilitation programs conducted by companies, protective workshops and other legal entities according to the Law;
- 3.2. Vocational rehabilitation programs implemented by institutions for vocational rehabilitation, secondary schools and other educational institutions;
- 3.3. Vocational rehabilitation programs to which persons with disabilities apply independently

³³ Pravilnik o raspodjeli sredstava za finansiranje/sufinansiranje programa održivosti zaposlenosti, razvoja privrednih društava za zapošljavanje osoba sa invaliditetom i zaštitinih radionica, te programa profesionalne rehabilitacije osoba sa invaliditetom - cl 5. Stav (c). izmjena od 20.3.2020.

Incentive in the form of tax and contribution refund³⁴ is approved retroactively for the previous quarter, and the submission of applications and payment of incentives is done through the Fund. Who can apply to this incentive? Based on the analysis of the regulations, the right to apply for the incentive: companies for employment of persons with disabilities; protective workshops; organizations of persons with disabilities.³⁵

Such a legal framework discourages the employment of persons with disabilities in the open labor market. This leads to a preference for employment under special conditions which deprives people with disabilities of their freedom of choice. It is necessary to change the existing legal framework.

5.6. Employment, Incentives and Retraining Programs in RS

The right to apply for programs and incentives of the Fond in RS have:

- Persons with disabilities who, according to the Law, have the right to apply for incentives, i.g. to have their employer apply for their workplace in their name, under the Law are:
 - o persons with disabilities whose degree of disability is **40%** or more,
 - o persons with at **least 70%** of physical impairment, if that impairment has the consequences of reduced working capacity in accordance with the Law, or if they are persons with moderate or mild mental retardation (intellectual disabilities).³⁶

Programs and incentives in Republika Srpska that can be applied by all business entities, including those who employ **under general conditions (open labor market)**.

³⁴ Pravilnik o ostvarivanju prava na isplatu novčanih naknada i subvencija čl.1

³⁵ Pravilnik o izmjenama i dopunama Pravilnika o ostvarivanju prava na isplatu novčanih naknada i subvencija br. 01-02-2-1519/17 od 02.03.2017. godine (Izmjena: 05.10.2017. godine) cl.1

³⁶ "Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida" RS čl. 27

- COMPONENT I: New Employment with Employers per person - Special incentive (co-financing of programs for maintaining the employment of persons with disabilities). Special incentives can be used for: Adjustment of the workplace and conditions; Purchase of machines and other means of work.³⁷
- Tax and contribution refunds. As in FBiH process of refund is the same and approved retroactively for the previous quarter, and the submission of applications and payment of incentives is done through the Fund.³⁸

Employment programs under special conditions - Who can apply to these programs:

companies for employment of persons with disabilities; protective workshops;

- COMPONENT II: Self-employment
- COMPONENT III: Employment of persons with disabilities who have registered commercial agricultural activity as their only and main occupation.
- COMPONENT IV: Economic support - the request is submitted by a non-governmental organization with the status of an organization of special importance. The request is submitted on behalf of persons with disabilities.

The analysis shows that both entity laws are similar in their content and have similar incentive programs. Based on analysis of the legislation, we can see that employers who employ under general conditions in the RS have greater incentives in comparison with FBiH. In RS all employers who employ persons with disabilities can apply for tax and contribution refunds. At the same time, in FBiH, this benefit can be achieved only by those employers who are registered for the employment of persons with disabilities. Further,

³⁷ Odluka o načinu ostvarivanja prava na stimulanse pri zapošljavanju invalida čl 7

³⁸ Odluka o načinu ostvarivanja prava na stimulanse pri zapošljavanju invalida čl 6 i 10

the funds allocated under the economic support component can be obtained only if PwD apply through an association, which puts individuals with disabilities who are not members of the association at a disadvantage. Also, it should be noted that the RS Fund does not have a developed retraining program for persons with disabilities. The reason for this is the insufficiently defined concept of professional retraining of PwD in the legal framework.

The data obtained through interviews with representatives of both entity Funds speak in favor of the fact that the society has transferred all the "burden" of resolving the employment of persons with disabilities to the Funds, but at the same time, the capacities (financial, human) of the Funds are very limited. The opportunity to approach the employment of persons with disabilities in a multisectoral manner was also missed. Recognizing the problem in the size and complexity of the requirements related to the employment of PwD and the limited field of action, the RS Fund, based on the Audit Report³⁹, has already proposed amendments to the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities.

More details on the operation of the Entity Funds and their impact on the process of employing PwD in practice can be found in the *Report on the State of Inclusion of PwD in Employment*"

³⁹ Audit Report "Professional Rehabilitation and Employment of Persons with Disabilities" prepared by the Main Audit Office of Republika Srpska.

5.7. Legal Definition of Legal Entities that Employ PwD under Special Conditions

According to the legal provisions in RS⁴⁰ and FBiH⁴¹, persons with disabilities who are employed under special conditions are working in companies for the employment of PwD, protective workshops, work centers, PwD organizations and through self-employment.

In the following, we will explain how the law and regulations define the status, structure and what conditions must be met by legal entities to obtain the status:

- Company for employment of PwD,
- Occupational workshops,
- Work center, and
- Independent activities (self-employment)

According to the regulations, the Funds are responsible for forming commissions for granting the status: of the company for the employment of PwD, the Protection Workshop and the Work Center. It is necessary to ensure that at least one person in the commission does not come from the ranks of employees within the fund, in order to ensure objectivity and transparency.

5.8. Company for Employment of PwD

A company for the employment of persons with disabilities is a company that has at least 40% of persons with disabilities out of the total number of employees in FBiH.⁴²

⁴⁰ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida RS, Službeni glasnik RS br. 98/04, 91/06, 12/09, 39/09, 82/15

⁴¹ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i upošljavanju osoba s invaliditetom FBiH Službene novine FBiH br.09/10

⁴² Zakon o profesionalnoj rehabilitaciji, osposobljavanju i upošljavanju osoba s invaliditetom" FBiH čl. 21

According to RS Law, companies that employ persons with disabilities must have at least 51% of persons with disabilities out of the total number of employees.⁴³

Company for employment of persons with disabilities in BiH can be established by all legal entities, regardless of the sector, but under special conditions prescribed by the Ministry, which include appropriate premises, equipment, and professional workers necessary for the work training of persons with disabilities. The law in the FBiH gives priority in employment in companies to persons with a higher degree of disability if they meet the conditions of the job.

These laws oblige the company to ensure the participation of at least one representative of the association of persons with disabilities in the work of the relevant body of the company.

5.9. Occupational Workshop

The company can obtain the status of an occupational workshop for employment of PwD in relation to the total number of employees if they employ 40% of persons with at least 70% degree of disability or at least six persons with that degree of disability. Also they must have 20 % of persons with 100% degree of disability, or at least three persons with 100% degree of disability, who have the right to care and assistance in accordance with legal provisions.⁴⁴

According to Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities in the RS, an organizational unit will obtain the status of protective workshops if it employs at least 51% of persons with disabilities in the total number of workers in the work unit, or if they have at least five persons with disabilities.⁴⁵

⁴³ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida"RS čl.28

⁴⁴ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i upošljavanju osoba s invaliditetom" FBiH čl. 29

⁴⁵ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida"RS čl.37

5.10. Work Center

According to the FBiH Law, the work center is a public institution. If a person with a disability is not able to be employed under the general or special conditions in companies for the employment of PwD or in occupational workshops due to the reduced work capacity, he/she can be employed in the work center. A person with a disability, who can be sent to work in the work center, is considered a person who does not achieve a work performance greater than 50% appropriate to his/her age, education and working conditions. The work center is established for the purpose of occupational therapy activities within the habilitation and rehabilitation of persons with disabilities. The work center must employ at least 80% of people with disabilities in relation to the number of employees (which includes service users + employees with disabilities). A person with a disability in the work center has the position of a service user.⁴⁶

According to the RS Law, the structure of the work center is the same as in FBiH; the only difference is that according to the Law, the work center must have an adequate number of assistants.⁴⁷

5.11. Self-employment

Employment and self-employment with own funds or funds of family members of a person with a disability is considered, according to the Law, employment under special conditions of a person with a disability. This independent activity is considered to be that activity that is performed in accordance with the Law on Crafts and Related Activities in the FBiH exclusively as the basic and only occupation. The holder of trade, regardless of whether he is a person with a disability or not, if he employs a person with a disability who

⁴⁶ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i upošljavanju osoba s invaliditetom" FBiH čl.32

⁴⁷ Zakon o izmjenama i dopunama zakona o profesionalnoj rehabilitaciji, obukama i zapošljavanju invalida čl 3

is related to the following: parent, spouse or child is entitled to compensation of paid taxes and contributions for that person because such employment is considered employment under special conditions. These rights belong to persons with disabilities who are employed under special conditions. Persons with disabilities exercise the rights to benefits in accordance with this law when registering the activities of the FBiH.⁴⁸

The RS Law further clarifies that self-employment is also considered to be the performance of an agricultural activity.⁴⁹ In the FBiH, this is subsequently regulated by additional regulations.

According to the FBiH Fund, 335 self-employed PwD were supported in 2019 through programs to maintain the existing percentage of employment.

According to the Data of the RS Fund in the Period 2019-2020, 30 PwD are self-employed through incentive programs for new employment.

More detailed data are presented in the *Report on the State of Inclusion of PwD in Employment*.

5.12. Disability Strategies in Both Entities

Bosnia and Herzegovina has two important disability strategies, one for each entity. Employment and professional rehabilitation program is an important segment in both entity strategies.

Strategy for improving the rights and status of persons with disabilities in the Federation from 2016 to 2021

48 Zakon o profesionalnoj rehabilitaciji, osposobljavanju i upošljavanju osoba s invaliditetom" FBiH čl.36

49 Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida"RS čl.41

The specific objective 6 of the strategy is: to strengthen the employment and self-employment of persons with disabilities.⁵⁰

Specific objective 6 contains nine (9) activities, which should increase the employment rate in the population of persons with disabilities.

1. Develop models of social entrepreneurship in order to employ and self-employ people with disabilities
2. Establish a network of centers for professional rehabilitation on the territory of the entire Federation of Bosnia and Herzegovina, which will be connected with educational institutions, the labor market and the Federal Institute for Pension and Disability Insurance.
3. Improve the employment of people with disabilities in the open labor market and the public sector.
4. Improve the legal framework that will enable more effective employment of persons with disabilities.
5. Ensure continuous career counselling for students with disabilities
6. Involve employment services in the employment process of persons with disabilities, as well as businessmen who should be introduced to the competencies of graduates and the benefits of employing persons with disabilities.
7. Encourage organizing cooperatives.
8. Encourage women's entrepreneurship, with special emphasis on women with disabilities.
9. Promote social entrepreneurship

⁵⁰ Strategija za unapređenje prava i položaja osoba s invaliditetom u Federaciji Bosne i Hercegovine 2016.-2021.(str.38.)

Strategy for improving the social position of persons with disabilities in Republika Srpska 2017-2026

AREA 7.2. Economic independence, employment and professional rehabilitation.⁵¹ In the area of economic independence, employment and professional rehabilitation are set the following objectives:

1. Increase the economic independence of persons with disabilities through support in employment and self-employment;
2. Develop social entrepreneurship;
3. Develop institutional and professional capacities for conducting professional rehabilitation.

Although they defined the goals differently, what is common to both entity strategies is that both emphasized the need for increased employment rates, continuous work on education and vocational rehabilitation of persons with disabilities - promoting social entrepreneurship.

There is no written report on how many goals of both entity strategies have been met so far. This is part of the general problem of the lack of valid records on persons with disabilities, which is also pointed out by the representatives of institutions and organizations of persons with disabilities (which can be seen in the Report in which the results of the field research are presented).

⁵¹Strategija unapređenja društvenog položaja lica sa invaliditetom u RS 2017-2026 (str.29)

5.13. Brčko District and Employment of Persons with Disabilities

During the preparation of this report, we found that the Brčko District has not developed a strategy or Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities. The only legal act that deals with the rights of persons with disabilities is the Law on supplementary rights of families of killed veterans and war invalids. Article 14 of this law states: *"War invalids have priority in the recruitment process if they meet the conditions required to work in these jobs in accordance with all relevant laws."*⁵²

5.14. Employment Opportunities for People with Disabilities in Local Communities

Since establishing the Funds for Professional Rehabilitation and Employment of Persons with Disabilities, employment programs are financed directly through them. There are no special programs to encourage the employment of people with disabilities at the cantonal and local level. Because complete financing and monitoring of the employment process of PwD in practice has been "put" on the Entity Funds. In the FBiH, the Fund is partly financed from the Federal Employment Agency in the amount of 10% and 5% of Cantonal employment services planned by the financial plan of the Federal Employment Agency and Cantonal employment services for active employment policy in the current year, and in accordance with legal provisions.⁵³

According to the Legal Provisions⁵⁴ in the RS, funds for the employment of PwD are partially provided by Republika Srpska, the Entity Employment Agency, municipalities,

⁵² Zakon o dopunskim pravima porodica poginulih boraca i ratnih vojnih invalida čl.14

⁵³ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i upošljavanju osoba s invaliditetom" FBiH čl 59.

⁵⁴ Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida"RS čl 13

chambers and funds, and other legal entities. However, it is not specified in what percentage, unlike the FBiH Law.

As we have already mentioned, all incentive programs go exclusively through funds' programs, and there are no independent employment programs for PwD. The reason ranges from the assumption that these programs are sufficient, but this research has shown that this is not true.

But people with disabilities can apply for funding in their local communities:

- for employment of young people,
- trainees,
- women,
- for start-up programs, etc.

Programs in local communities in 2019-2020 and programs that repeat yearly.

Sarajevo

- Municipal programs for youth employment (yearly)
- Sarajevo Canton Employment Agency Jobs for All (yearly)
- EU Programs for employment of youth
- 25 different NGO programs for start-up and youth employment

Banja Luka

- City of Banja Luka youth employment (annually).
- EU Programs for employment of youth.
- 10 different NGO programs for start-up, youth employment and women's entrepreneurship.
- Program Caritas of Bosnia and Herzegovina, together with Caritas of the diocese of Banja Luka and Caritas of the dioceses of Mostar and Trebinje - for young

people aged 18 to 30 financing of private business or social enterprise within the program "YourJob".

Zenica

- Federal Employment Agency, Self-employment co-financing program (yearly) Zenica-Doboj Canton for the following programs: Opportunity for all, Looking for an employer, start-up, women's entrepreneurship, Youth Entrepreneurship.

Vitez

- There are no municipal programs, only public calls at the level of FBiH or BiH.

Mostar

- Program Caritas of Bosnia and Herzegovina, together with Caritas of the diocese of Banja Luka and Caritas of the dioceses of Mostar and Trebinje - for young people aged 18 to 30 financing of private business or social enterprise within the program "YourJob".

Trebinje

- City of Trebinje, Employment Bureau RS and Foundation Helvetas - Employment program, job for 30 people from Trebinje.

Brčko

- IMPAKT Sarajevo Investment Foundation and Youth Employment Project (YEP).

Bihać

- Foundation "Mozaik" employment programs, Youth and women's, and start-up financing

There are over 10 programs that finance employment and self-employment at the entity level and territorially include these municipalities.

Given the lack of data on how many people with disabilities actually use municipal employment programs, it is reasonable to suspect here that most people with disabilities cannot compete with other registered applicants and that they lack the courage to apply as a result of general social exclusion.

Nevertheless, greater participation of persons with disabilities in programs aimed at the general population would be desirable, considering that general programs have to offer equal opportunities for all.

6. Conclusions

In an effort to understand and present the employment situation of persons with disabilities in Bosnia and Herzegovina, we started with the previously presented analysis of the support system established by the state of Bosnia and Herzegovina (ie its two entities and the district) to support the employment of persons with disabilities. The support system consists of a legally prescribed framework, institutions envisaged for the implementation of the law and the efficiency of the work of these institutions.

When drawing conclusions, the data obtained by desk analysis were supplemented with data obtained by the survey of employment practices of persons with disabilities. A special contribution was made by data collected in two separate semi-structured interviews with representatives of funds for Vocational Rehabilitation, Training and Employment of Persons with Disabilities from FBiH and RS.

- 1. Funds for Vocational Rehabilitation, Training and Employment of Persons with Disabilities in both entities are entitled as bearers of the process of employment of persons with disabilities, and their legal framework is generally limited to redirecting funds without the ability and capacity to actually influence the employment process. In Republika Srpska, there is an initiative (in the draft phase) to amend the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities, based on the Audit Report on the Performance of the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities.⁵⁵*

⁵⁵ See Recommendation in the Audit Report on the Performance of the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities (page 39.)
http://www.gsrrs.org/static/uploads/report_attachments/2019/08/16/RU001-18_Lat.pdf

2. *None of the institutions is in charge of keeping real records on the number of employed persons with disabilities, the number of unemployed persons with disabilities, the length of stay in the workplace, and it is impossible to prove the effectiveness of existing measures through financial incentives to employers. Funds have sporadic data based on data provided when applying for employment support programs.*

3. *There is no obligation or prescribed protocol for intersectional cooperation in the employment of persons with disabilities. E.g. cooperation between the Funds for Vocational Rehabilitation, Training and Employment of Persons with Disabilities and employment services is sporadic.*

4. *Financial incentives for employers to employ people with disabilities are not sufficiently stimulating for employers to have an incentive to invest additional effort and employees with disabilities and make any adjustments in the work space of the work organization, etc⁵⁶. For example, in the RS, employers receive the same amount of money through employment services to stimulate the employment of new workers without disabilities⁵⁷. In these circumstances, it is easier for the employer to decide to hire a person without a disability for the same financial incentive. In the FBiH, incentives are awarded based on the degree of disability.*

⁵⁶Javni poziv za poslodavce, invalide i invalidske organizacije za subvencije za zapošljavanje, samozapošljavanje i ekonomsku potporu invalidima u 2019. godini. (https://www.fondinvs.org/Javni_poziv_2019 pristupljeno 5.03.2020 u 12:50)

⁵⁷ Zavod za zapošljavanje Republike Srpske - Javni poziv za korišćenje sredstava po programima zapošljavanja u 2020. Godini http://www.zzzrs.net/images/uploads/javni_pozivi/JAVNI_POZIV_2020.pdf pristupljeno 5.03.2020 u 12:50)

5. *There is no effective control over the collection of special contributions that employers are obliged to pay to the Funds in case they do not employ the legally prescribed number of workers with disabilities. In the FBiH, special contributions are currently collected through the Fund's web application, where employers register on a voluntary basis. Therefore, most employers do not fulfil this obligation. Also, the special contribution collection system is regulated so that equal treatment is given to employers who do not employ persons with disabilities at all and those who do not have a sufficient number of employed persons with disabilities.*

6. *In the FBiH, employers under general conditions have far fewer incentives at disposal for employment of PwD than employers under special conditions. It directly reflects on PwD and reduces their employment opportunities in the open labor market and indirectly forces them to be employed under special conditions as only option. This not only poses an economic problem because it reduces the possibility of earning and limits the possibility of advancement in the workplace, but also prevents inclusion in the society on equal terms and pushes into social isolation.*

7. *The system of professional rehabilitation, retraining and improvement of competencies of persons with disabilities is not precisely regulated by law or adjusted to the needs of the modern labor market or trends in education, which is why persons with disabilities constantly face lack of competencies and non-competitiveness in the labor market.*

8. *The laws on Vocational Rehabilitation, Training and Employment of Persons with Disabilities in both entities leave room for discrimination, whether it is the prescribed degree of physical disability necessary to exercise the right to support or the fact that only persons with disabilities can apply for economic support programs in the RS Fund through certain associations of persons with disabilities (which makes them unable to exercise their right to support individually).*

9. *The Brcko District does not have special mechanisms to support the employment of persons with disabilities.*

7. Recommendations

1.1. Amendments to both Laws on Vocational Rehabilitation, Training and Employment of Persons with Disabilities envisage a wider scope of activities of the Funds, and accordingly envisage a larger budget and an increase in the capacity of the Funds.

2.1. Oblige employment services to keep records / create a single database of unemployed persons with disabilities with data on their qualifications, necessary support, etc. Link data with data of the Funds (on persons who received employment support) and promote the registration of PwD with employment services, and enable online login.

3.1. Create a protocol on cooperation between all relevant factors for the employment of persons with disabilities (Funds, Ministries of Labor, employment services, PwD organizations), which will enable as many persons with disabilities as possible to be included in the support system.

3.2. A special independent study is needed to investigate the extent to which the Objectives of the strategies of both entities regarding the position of persons with disabilities have been met (“Strategy for Improvement the Rights and Position of Persons with Disabilities in the FBiH 2016-2021” and “Strategy for improving the social position of persons with disabilities in RS 2017-2026”).

4.1. Increase the amount of financial incentives for employers who employ persons with disabilities in such a way that it stimulates the employer to be additionally interested and try to provide conditions for the work of PwD. Provide additional inflow of funds through a more efficient policy of collecting special contributions from employers.

5.1. Prescribe the obligation to pay a special contribution under the umbrella of the tax administration system and would be collected together with other taxes and contributions.

6.1. Through the Amendments to the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities, enable all employers in the open labor market to refund taxes and contributions. This will enable people with disabilities to get more employment opportunities in the open labor market and more opportunities for true inclusion in the community.

7.1. To regulate professional rehabilitation, retraining and additional opportunities for education of PwD by a special law.

8.1. Define more precisely the criteria for the possibility of exercising the right to support, and in relation to the functional impairment of the employed person, apply for financial assistance, taking into account that the criteria do not exclude any group of persons with disabilities. Enable simple, transparent and individual application for support.

9.1. Develop a legal solution that will enable persons with disabilities in the Brčko District to receive adequate employment support at the district level.

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- Ustav RS broj 21/92 – prečišćeni tekst, 28/94, 8/96, 13/96, 15/96, 16/96, 21/96, 21/02, 26/02, 30/02, 31/02, 69/02, 31/03, 98/03, 115/05, 117/05 (RS Constitution)
- Evropska konvencija o ljudskim pravima i osnovnim slobodama Službeni glasnik BiH br.6/99 (Convention for the Protection of Human Rights and Fundamental Freedoms)

- Zakon o zabrani diskriminacije Službeni glasnik BiH br. 59/09 (Law on Prohibition of Discrimination BiH)
- Odluka o prihvatanju „Standardna pravila za izjednačavanje mogućnosti osoba s invaliditetom“, Vijeće ministara BiH . 41/03 (Decision on acceptance ": Standard Rules for Equalization of Opportunities for Persons with Disabilities", Council of Ministers of BiH)
- UN Konvencija o pravima osoba s invaliditetom (ratificirana u 2010. godini) Službeni glasnik BiH – Međunarodni ugovori“, broj 11/09 (the UN Convention on the Persons with Dissabilities)
- Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida RS Službeni glasnik RS br. 98/04, 91/06, 12/09, 39/09, 82/15 (Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities of the RS)
- Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju osoba s invaliditetom FBiH. Službene novine FBiH br.09/10 (Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities FBiH)
- Strategija za unapređenje prava i položaja osoba s invaliditetom u FBiH 2016-2021 (<http://www.fbihvlada.gov.ba> pristupljeno 3.02.2020 u 11:00) (Strategy for Improving the Rights and Position of Persons with Disabilities in the FBiH 2016-2021)
- Strategija unapređenja društvenog položaja lica sa invaliditetom u RS 2017-2026 (<http://www.vladars.net> , pristupljeno 26.1.2020.u 12:10) (Strategy for improving the social position of persons with disabilities in RS 2017-2026)
- Zakon o radu FBiH Službene novine FBiH br.62/15 (FBiH Labor Law)
- Zakon o radu RS Službeni glasnik RS br. 1/16 (RS Labor Law)
- Pravilnik o raspodjeli sredstava za finansiranje/sufinansiranje programa održivosti zaposlenosti, razvoja privrednih društava za zapošljavanje osoba sa invaliditetom i

zaštitivnih radionica, te programa profesionalne rehabilitacije osoba sa invaliditetom (Ordinance on the distribution of funds for financing / co-financing of employment sustainability programs, development of companies for the employment of persons with disabilities and occupational workshops, and professional rehabilitation programs for persons with disabilities)

- Pravilnik o raspodjeli sredstava Fonda za profesionalnu rehabilitaciju i zapošljavanje osoba sa invaliditetom za dodjelu novčanog stimulansa za novo zapošljavanje osoba sa invaliditetom (Ordinance on the distribution of funds of the Fund Fund for Vocational Rehabilitation, Training and Employment of Persons with Disabilities for the allocation of financial incentives for new employment of persons with disabilities)
- Pravilnik o ostvarivanju prava na isplatu novčanih naknada i subvencija (Ordinance on exercising the right to payment of cash benefits and subsidies)
- Pravilnik o izmjenama i dopunama Pravilnika o ostvarivanju prava na isplatu novčanih naknada i subvencija br. 01-02-2-1519/17 od 02.03.2017. godine (Izmjena: 05.10.2017. godine) (Amendments to the Ordinance on the exercise of the right to payment of cash benefits and incentive 05.10.2017.)
- Pravilnik o izmjenama i dopunam(a Pravilnika o ostvarivanju prava na isplatu novčanih naknada i subvencija br. 01-02-2-1519/17 od 02.03.2017. godine (Izmjena: 27.03.2018. godine) (Amendments to the Ordinance on the exercise of the right to payment of cash benefits and incentive 27.03.2018.)
- Pravilnik o ostvarivanju prava na isplatu novčanih naknada i subvencija br. 01-02-2-1519/17 od 02.03.2017. godine - februar 2019 (Amendments to the Ordinance on the exercise of the right to payment of cash benefits and incentive February 2019)
- Odluka o načinu ostvarivanja prava invalida na ekonomsku podršku Fond RS (Decision on achieving rights of persons with disabilities to the economic support fund RS)

- Odluka o načinu ostvarivanja prava na stimulanse pri zapošljavanju invalida Fond RS (Decision on the method of exercising the right to incentives for employment of persons with disabilities RS Fund)
- Dopune odluke o načinu ostvarivanja prava na stimulanse pri zapošljavanju invalida Fond (Amendments to the Decision on the method of exercising the right to incentives for employment of persons with disabilities RS Fund)