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Fondacija za socijalno uključivanje u Bosni i Hercegovini
Фондација за социјално укључивање у Босни и Херцеговини
Zaklada za socijalno uključivanje u Bosni i Hercegovini
Social Inclusion Foundation in Bosnia and Herzegovina

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An Analysis of the Current State of all Persons with Disabilities and their
Options for Employment and Self-Employment in Bosnia and Herzegovina



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EDITOR'S FOREWORD

Persons with disabilities (PwDs) represent the most vulnerable, excluded and marginalized group in the society of Bosnia and Herzegovina. Difficulties and barriers encountered daily by the PwD population range from fulfilling basic life needs to accessibility, and the right to education and work. Although Bosnia and Herzegovina ratified the United Nations Convention on the Rights of Persons with Disabilities, as well as its Optional Protocol, on March 12, 2010, and the Convention entered into force on April 11 the same year, the overall situation of PwDs has continued to deteriorate at an alarming rate.

Though the Policy in the Area of Disability was adopted by the Bosnia and Herzegovina Council of Ministers in 2008, and the 2010-2014 Federation of Bosnia and Herzegovina Strategy for Equalization of Opportunities for Persons with Disabilities and Strategy for Improvement of the Social Position of Persons with Disabilities in Republika Srpska, 2010-2015 have been adopted, still no single register of PwDs exists. 10% of the population of Bosnia and Herzegovina is estimated to suffer from some form of physical, sensory, developmental or intellectual disability, while 30% of the population is directly or indirectly affected by its consequences. The PwD population is frequently exposed to multiple forms of marginalization and discrimination, and the basis for exclusion of its members contains numerous aspects – primarily disability, then gender, age, and ethnic affiliation. PwDs are also the social group most severely affected by poverty and unemployment. Nearly two-thirds of all adult PwDs live near or below the poverty line, and employed PwDs are most often paid minimum compensations for their work. Some general reasons for the high PwD unemployment rate is this group's lack of marketable knowledge and skills, the overall weakness of the economy in Bosnia and Herzegovina, low employment capacities, and infrequent and sporadic creation of new jobs.

Education and training is another field where the rights of PwDs are disregarded under current legislation. Although laws and legal documents contain and emphasize the right to education for all persons under the same conditions, the actual situation is different. The primary obstacles facing PwDs in education relate to architecture, urban planning and availability of information, followed by: unequal access to educational institutions; the need to overcome prejudices; and maladapted textbooks and instructional aids. Access to information is another difficult and significant barrier for PwDs, as most information sources are inaccessible to them due to physical or other barriers such persons encounter, due to various sensory impairments.

This situation clearly reflects inconsistencies in the implementation of the United Nations Convention on the Rights of Persons with Disabilities, particularly: Article 5, which stipulates that all persons are equal before the law, and enjoy the right to equal protection and equal benefits of the law, without discrimination; Article 24, which elaborates the right of PwDs to education, which belongs to all persons, without discrimination and on a basis of equal opportunity, and which requires states to ensure inclusive education on all levels; and Article 27, which enshrines the right of PwDs to work, on an equal basis with others, and to earn a living by employment freely chosen or accepted in a labor market and working environment that is open, inclusive and accessible to such persons.

Recognizing the position of PwDs and the difficulties they encounter, the Social Inclusion Foundation in Bosnia and Herzegovina (SIF in BiH) has, from the very beginning of its work in 2010, provided direct support to PwD organizations and PwDs themselves in gaining rights and improving living conditions and inclusion in society. Motivated by the understanding that

the needs and problems of the PwD population are far more pronounced and widespread than those of other vulnerable groups that it supports, the SIF in BiH in its most recent year of operation (2013-2014) placed focus exclusively on the PwD population, specifically on the employment and self-employment of PwDs. Consequently, in 2013-14 support has been provided to the implementation of ten PwD employment and self-employment projects run by non-governmental organizations and enterprises.

Seeking to contribute as much as possible to exerting stronger and longer-term influence on the enhancement of employment and self-employment of PwDs – and thereby to addressing this population's crucial existential issues – the 'We are here – An Analysis of the Current State of all Persons with Disabilities and their Options for Employment and Self-Employment in Bosnia and Herzegovina' was prepared, with participation from some of the most eminent experts in the field of disability in Bosnia and Herzegovina, and of representatives of institutions with competence in this field. The authors sought to present the issue of the position of PwDs in the area of employment and self-employment from the perspective of their professional experience, and to offer recommendations for addressing existing shortcomings.

In the first chapter entitled 'Analysis and Recommendations for the Prevention of Discrimination in the Area of Employment of Persons with Disabilities', author Ms. Elvira Bešlija (Association of Paraplegics and Poliomyelitis Patients of the Federation of Bosnia and Herzegovina) concentrates on the discrimination PwDs face in the labor market, and on possible ways to overcome or mitigate this problem. In the following chapter 'The Concept of 'Disability' in the Legal Framework – Status and Trends' Ms. Dubravka Halepović (Initiative for Better and Humane Inclusion – IBHI) presents an overview of the legislative framework that regulates rights and obligations in the area of employment of PwDs in Bosnia and Herzegovina, the European Union and on an international level. In the chapter 'Policies in the Area of Disability in the Federation of Bosnia and Herzegovina (1996-2013)', Dobrica Jonjić (Federation of Bosnia and Herzegovina Ministry of Labor and Social Policy) presents a brief overview of the legislative and regulatory framework of the Federation of Bosnia and Herzegovina in the area of disability, on the implementation of laws and policies in practice, and of (un)equal treatment of PwDs as a consequence of methods used to address their status, rights and benefits under the current system. PhD Ljubo Lepir (Republika Srpska Ministry of Health and Social Protection) covers the same or similar issues, problems and possible solutions in Republika Srpska in the chapter entitled 'Assessment of the Status of the Support System for Persons with Disabilities in Republika Srpska'.

Taking into account the importance of the Federation of Bosnia and Herzegovina Fund for Professional Rehabilitation and Employment of Persons with Disabilities, and the Republika Srpska Fund for Professional Rehabilitation and Employment of Invalids as the most important institutions for the central theme of this analysis, PhD Ivica Marinović (Federation of Bosnia and Herzegovina Fund for Professional Rehabilitation and Employment of Persons with Disabilities) presents the Fund's approach, in the chapter 'An Overview of the Situation and Status of Persons with Disabilities from the Perspective of the Federation of Bosnia and Herzegovina Fund for the Professional Rehabilitation and Employment of Persons with Disabilities'. He also outlines its results to date, and possibilities to enhance its operations and services. Ms. Sandra Trkulja (Republika Srpska Fund for Professional Rehabilitation and Employment of Invalids) covers the same topic from the perspective of the Republika Srpska Fund.

The intent and the desire of the editor and authors has been to present the current situation of PwDs in Bosnia and Herzegovina in a detailed, professional and comprehensive manner through this analysis, and to offer concrete, realistic and viable guidelines and recommendations for enhancing the prospects of employment and self-employment of PwDs. We sincerely hope that we have at least partially succeeded in our effort, and that this analysis will benefit the widest circles of stakeholders and target groups and contribute to the prompt, systematic and long-term realization of the right to work, as a basic human right of persons with disabilities.



Ranka Ninković-Papić

Director

Social Inclusion Foundation in Bosnia and Herzegovina (SIF in BiH)

ANALYSIS AND RECOMMENDATIONS FOR THE PREVENTION OF DISCRIMINATION IN THE AREA OF EMPLOYMENT OF PERSONS WITH DISABILITIES

Introduction

Rarely is any domain of social and human reality so marked by incongruity between the norm and reality, as is the case with the field of rehabilitation and employment of persons with disabilities.

The fundamental intent of professional rehabilitation and employment of persons with disabilities is found in its socioeconomic rationale, which also constitutes its fundamental goals – economic independence, supporting of their families through work, and overcoming the psychological barriers that traditionally separate persons with disabilities and those without. The resocialization of persons with disabilities, their self-confidence and belief in their own abilities are directly related to their working contributions.

In our community, the initial stages of the rehabilitation of persons with disabilities are mainly in line with world standards, but, for various reasons, momentum is lost when it comes to employment, although it constitutes a major part of rehabilitation. Despite educational attainment or professional skills, persons with disabilities encounter a series of obstacles, from employers' prejudices to maladapted workplaces, and in the current context of economic crisis and privatization, they are first to lose their jobs when competing against able-bodied persons.

Analysis of the Current Situation and Status of all Persons with Disabilities (PwDs) in Bosnia and Herzegovina

In the field of employment, alongside physical obstacles, prejudices about persons with disabilities and their abilities and work capacity constitute the greatest problem. This is compounded by the misalignment of current educational processes with the needs of the labor market.

Employment and work are the final stages of professional rehabilitation. An analysis of the situation of unemployed persons with disabilities relative to the rest of the unemployed population reveals certain differences:

- a lower level of educational attainment;
- greater age;
- shorter and less satisfactory work experiences;
- employed PwDs receive lower monthly wages relative to persons without disabilities.

The employment and work of persons with disabilities is of special importance for any society, because this constitutes a significant sector of the population who have diminished options, and who find it harder to become employed. Various models have been applied to promote employment of persons with disabilities.

The models of employment and work of persons with disabilities are a reflection of the political heritage and of society's developmental guidelines for the relationship between individuals and the community. As well as this, they are a consequence of inherited and developed legal policies that regulate corresponding social relations, of economic heritage, of the current level and intended course of development, and of social heritage and the direction of the development of social relations, which act as a base for social consciousness, cultural development, the development of social disciplines, and the influence of religion among other social factors.

According to Convention 159 on 'Professional Rehabilitation and Employment of Persons with Disabilities' (International Labor Organization, 1983), the purpose of professional rehabilitation is to enable persons with disabilities to secure and retain appropriate employment, to advance in such employment, and to integrate and reintegrate PwDs into society. Experiences in the field of professional rehabilitation indicate that the greatest difficulties arise when it comes to employment.

Employment and work play an important role in an individual's life. For a human being, work, in addition to its economic dimension, also has vital social and psychological functions, and is a source of social status and prestige. Employment enhances a person's sense of satisfaction with life, and affects the individual's psychological structure. Professionally active persons have more self-respect and are more successful. Employment also affects the health; full-time employment has been shown to reduce the likelihood of an individual's health deteriorating. Although the significance of work relative to the wellbeing of individuals has been confirmed in general, this cannot be taken to apply to everyone.

One of the major consequences of disability is an increased social isolation, and diminished social inclusion of individuals, that does not come as a result of their intention to isolate themselves from society. Relative to the rest of the population, PwDs feel insufficiently involved in the community for the following reasons: the community does not encourage their inclusion; they lack the income to permit participation in various segments of community life; and they are not sufficiently informed.

Two employment models are predominant:

- employment in the open labor market;
- protected employment.

The universal model sets a goal of employing persons with disabilities in the open labor market.

The following special forms of employment exist in the open labor market:

- business units in the open economy;
- supported employment;
- self-employment.

However, there will always be some persons with disabilities who, due to the nature of their disabilities, cannot work in the open labor market. This is why the protected employment model was developed, which contains the following forms of protected employment:

- sheltered workshops;
- labor centers;
- occupational centers.

A Brief Overview of the Legal and Constitutional Framework of the Status and Rights of PwDs at a State Level in Bosnia and Herzegovina

The legal framework in Bosnia and Herzegovina:

As the issues of work and employment are governed by laws and other regulations, the regulatory framework for labor and the employment of persons with disabilities needs to be analyzed, as a precondition for implementation of employment policies.

The regulatory framework for labor and employment does not exist on a state level, but on an entity level, and it is based on international rules, which become part of domestic legislation upon signature, accession or ratification.

The right of persons with disabilities to employment and professional rehabilitation is guaranteed by the constitutions of each entity, and controlled by laws and other regulations.

Bosnia and Herzegovina and its entities guarantee in their constitutions the highest level of internationally recognized human rights, and undertake to ensure that all citizens equally and fully enjoy and exercise these rights. This includes the rights to work, employment, and protection from discrimination on any basis, and consequently on the basis of disability.

The following documents regulate the employment sector in Bosnia and Herzegovina:

- The Constitution of Bosnia and Herzegovina;
- The Constitution of the Federation of Bosnia and Herzegovina;
- The Constitution of Republika Srpska.

The Federation of Bosnia and Herzegovina:

- The Labor Law of the Federation of Bosnia and Herzegovina;¹
- Law on Employment Intermediation and Social Security of Unemployed Persons of the Federation of Bosnia and Herzegovina;²
- Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities.³

1 FBiH Official Gazette no. 43/99 and 32/00

2 FBiH Official Gazette no. 41/01

3 FBiH Official Gazette no. 34/10

Republika Srpska:

- Republika Srpska Law on Professional Rehabilitation, Training and Employment of Disabled Persons;⁴
- Labor Law – Consolidated Text;⁵
- Employment Law;⁶
- Occupational Safety Law;⁷
- Law on Pension and Disability Insurance.⁸

Policies and strategies:

- Policy in the Area of Disability in Bosnia and Herzegovina, Bosnia and Herzegovina Council of Ministers, 2008;⁹
- 2010-2014 Federation of Bosnia and Herzegovina Strategy for Equalization of Opportunities for Persons with Disabilities;
- Strategy for Improvement of the Social Position of Persons with Disabilities in Republika Srpska, 2010-2015 (Republika Srpska Official Gazette, no. 134/11.)

International acts:

- UN Convention on the Rights of Persons with Disabilities, 2006;
- UN International Covenant on Economic, Social and Cultural Rights, 1966;
- General Declaration on the Rights of Men, OUN General Assembly, 10 December 1948;
- Standard Rules on Equalization of Opportunities for Persons with Disabilities, OUN General Assembly at its 48th session (Resolution 48/96);
- UN Declaration on the Rights of Persons with Disabilities, 1976 (Resolution 34/47);
- European Social Charter (revised, Strasbourg, 1996);
- European Employment Strategy, European Commission, Brussels, 2003, COM2003/6 Final;
- European Strategy for Persons with Disabilities 2010-2020/SEC(2010) 1323/1324.

Institutional framework:

Both entities of Bosnia and Herzegovina have for several years sought to improve and reform their programs and legislation in the domain of employment of PwDs, expressing the utmost commitment to take measures granting priority of employment to persons with disabilities and promoting the employment of such persons.

The basic models are the laws on professional rehabilitation, training and employment of persons with disabilities adopted in both entities.

4 RS Official Gazette no. 98/04 and 91/06

5 RS Official Gazette no. 55/07

6 RS Official Gazette no. 54/05 and 64/06

7 RS Official Gazette no. 01/08

8 RS Official Gazette no. 105/06, 20/07 and 33/08

9 BiH Official Gazette no. 76/08

The purpose of these laws is to provide the institutional framework that would permit the development and implementation of specific programs of professional rehabilitation, training and employment of persons with disabilities. This would take place on the open market and under special conditions, with support from the government, which would use its measures to provide benefits advancing the employment of persons with disabilities.

The entire process is regulated in a single place, from the definition of the concept of disability and diminished work capacity, through a novel approach to professional rehabilitation – which is organized and carried out both in the regular education system and through specialized measures and activities – to employment of persons with disabilities on the open market. This occurs under general conditions with the responsibilities of social and government bodies clearly delineated, and under special conditions in companies and institutions established for such purposes.

The preconditions for more proactive and systemic commencement of the process of employment of persons with disabilities were created through the establishment of funds by both entity governments, for the professional rehabilitation and employment of such persons as public institutions.

The purpose of these funds is to implement policies of development and advancement of the professional rehabilitation and employment of persons with disabilities. This can include co-funding or funding stakeholders who carry out such work, conducting transactions when paying out cash incentives, and overseeing the implementation of programs that utilize funds earmarked for employment of persons with disabilities.

In the course of the implementation of this law, the first results have been recorded. New enterprises to employ PwDs are being established. A number of private employers requested benefits for employment of PwDs, the process of recording employment of persons with disabilities began, and some funding earmarked for providing benefits for employers has begun to accumulate.

In addition to this institutional change, a certain change occurred in the policies of employment bureaus, as well as in those of private employment agencies, with the aim to facilitate better services for finding employment, counseling services and support to programs advancing the process of employment of persons with disabilities. New agencies and internet portals targeting PwDs have been established.

Analysis and Recommendations for Equalization of Rights and Opportunities for all PwDs in Bosnia and Herzegovina

Persons with disabilities constitute one of the groups that is either marginalized and socially excluded, or at a high risk of poverty and social exclusion in general. Consequences of this in the labor market are that they normally receive lower incomes, and are rarely able to hold jobs for longer periods (for example, permanent employment).

Very frequently, a low level of educational attainment, along with the lack of professional knowledge and skills that persons with disabilities often bring to the labor market (if they even enter the labor market) compound the complexity of their situation.

Some of the causes of the low rate of employment of persons with disabilities are to be found in the above-mentioned maladapted work conditions, and working environments unsuited to

their needs. Poor motivation of employers and distorted views about employment and work of persons with disabilities are also contributing factors.

Long-term dependence on social benefits, absence of equal opportunities and independence once appropriate work has been found, as well as passivity in the process of seeking employment, lead many persons with disabilities to abandon the labor market.

The challenges facing persons with disabilities in their attempts to integrate into the labor market and the situation of PwDs with regard to employment and social security are extremely difficult. A lack of employment opportunities and the absence of an adequate social security system prevents persons with disabilities from leading dignified lives.

Such problems require complementary work with real involvement from government institutions, persons with disabilities and the non-governmental sector to define appropriate policies. Employment is the best prevention of social exclusion, and one of the major ways for persons with disabilities to achieve full participation in society. It is also a fundamental way to involve such persons in all processes of life, and to achieve their full and real integration.

Problems

The process of education, professional rehabilitation and employment of persons with disabilities in Bosnia and Herzegovina, despite quality solutions and practices in policies and laws, has its shortcomings, which are primarily reflected in:

- incompatibility of systems;
- absence of a satisfactory plan of education and professional rehabilitation aligned with the needs of the labor market;
- insufficient information about possibilities provided by the normative and institutional frameworks;
- general economic situation and business conditions;
- prejudices and stereotypes towards persons with disabilities.

The current situation in these domains is further aggravated by a high poverty rate, the low level of educational attainment of persons with disabilities, and poor competitiveness of their occupations and skills in the labor market, as well as imbalanced capacity for development in local communities. The shortage of qualified personnel with special training for work with persons with disabilities is another crucial problem. There are more and more initiatives for PwDs to start their own companies that would employ others with disabilities, but they have no one to turn to for professional advice about the types of activities to enter, demands of the market and sources of information. All this requires the development of a new approach in the domain of employment that would favor services relative to the current approach, which is dominated by records and intermediation.

Levels of social inclusion and of the employability of persons with disabilities in the labor market in Bosnia and Herzegovina are very low. PwDs have an extensive need to participate in both formal and informal education, but due to:

- lack of information,
- offers and resources,

- architectural barriers and
- maladapted public transportation

they are largely prevented from equal participation in social processes.

As a result, PwDs:

- lack appropriate knowledge and skills that are in demand in the labor market;
- remain socially isolated and financially dependent on society, instead of taking an active role in societal development;
- become a 'burden on society'.

The best mode of societal care for persons with disabilities is to create conditions for their employment and integration into the community. A crucial requirement is to overcome discrimination on the basis of disability, in all matters related to employment, including terms of employment and entry to the labor market, health care and workplace safety, general working conditions and professional advancement. The corresponding legislation needs to be harmonized with international standards, while taking into account conditions in Bosnia and Herzegovina.

Analysis and Recommendations for the Equalization of Rights and Opportunities of PwDs and Persons without Disabilities in Bosnia and Herzegovina

The problem of disability does not arise solely through impairment of certain functions, but is also a product of relationships with persons who are not disabled. Persons without disabilities generally feel pity for persons with disabilities, and view them as sick and unfortunate people who cannot enjoy the benefits of modern society, including marriage, parenthood and employment, as well as other forms of social inclusion. This level of prejudice, and stereotypes towards persons with disabilities, effectively result in the social exclusion of PwDs, and in these persons perceiving themselves as a marginalized group.

Social processes in Bosnia and Herzegovina over the past twenty years have affected general economic relations, economic growth and development, and the positions of certain population groups. The overall transition process of society in Bosnia and Herzegovina has caused the nationwide disappearance of industry, an ongoing hemorrhage of jobs, and a rise in unemployment. Unemployment rates of persons with disabilities are more drastic than for persons without disabilities. The education system, which is outdated and inadequate at all levels, does not provide persons with disabilities with the opportunities to be trained for occupations of interest to the labor market, and existing curricula for persons with disabilities were developed many years ago.

A brief historical overview

Before the war, PwDs in Bosnia and Herzegovina were trained for very few occupations, and only for the separate social care system in institutions set aside for PwDs. For instance, blind persons and PwDs with sight impairment completed elementary and secondary education within schools for the blind, where they were trained for a limited number of occupations (operation of telephone exchanges and physical therapy, for example). With ongoing technological

development, the occupation of telephone exchange operator became obsolete, and as such can no longer be performed by blind PwDs, while an overproduction of physical therapists eliminated what few opportunities they may have had in that field.

Deaf persons and persons with hearing and speech impairments continue to be trained in specialized schools, and their options are mainly limited to those within trade occupations. It is devastating that there are fewer than ten deaf persons in Bosnia and Herzegovina with university degrees. Before the war in Bosnia and Herzegovina, persons with a physical disability could receive elementary education at the 'Special Hospital for Myopathic Disorders' in Fojnica. This mainly covered dystrophy patients, but patients with poliomyelitis, with paraplegia, amputees and persons with other physical disabilities were also enrolled.

However, to acquire a secondary education, these patients needed to go to Zagreb (Dubrava) or Podgorica, where they trained as administrative technicians or for trade occupations (such as watchmakers, radio-TV mechanics, precision mechanics etc.), and in general for professions that are performed sitting down. All this certainly does not apply to those PwDs who had increased possibilities due to the support of their parents and families, and who completed regular elementary and secondary schools as well as higher education. Although these persons had to overcome enormous problems caused by non-adapted facilities and learning tools, their studies were to an extent facilitated by the free part-time study system.

Recommendations for the equalization of rights and opportunities of persons without disabilities and PwDs are certainly to be found in the consistent implementation of sound legal solutions, and in the capacities of funds for professional rehabilitation and employment of PwDs in both entities. Continuing activities are necessary to raise awareness among all citizens that persons with disabilities are not 'persons with special needs', because they have the same needs as any other employee – the need to secure existence for themselves and their families, the need for communication and a social life, and the need for respect, education and advancement.

The sole difference in persons with disabilities is that sometimes they fulfill their needs in different ways, which may require an atypical organization of workspaces, appropriate access or adapted means of work, different time allocations for the successful completion of work tasks, or alternative forms of communication. None of the above-mentioned constitutes a reason not to take PwDs under serious consideration for employment.

A Review of Examples of Good Practice

In the marginalized and discriminated world of persons with disabilities, there are examples of good practice. A review of such examples certainly implies a focus on specific persons, which also means highlighting examples of varying natures.

- a person with disability – employed for the first time as a PwD;
- a person with disability – returning to the same job after the occurrence of disability;
- a person with disability – needing to be retrained after the occurrence of disability;
- a person with disability – employed in the public/private sector;
- a person with disability – employed in a protected workshop;
- a person with disability – employed in a PwD organization.

Any of the above modes can offer an example of good practice. All modes of employment of PwDs are good and welcome. However, each includes differences in attitudes to PwDs in terms of environment or working conditions, and also of the personal attitude of the person with the disability.

Employment in a protected workshop or a PwD organization can be easiest for PwDs because they are surrounded by persons who are in a similar state of disability as him- or herself. It requires less affirmation, there is more understanding and support, and workspaces and facilities are appropriately adapted.

Employment in the public sector is a major challenge for PwDs, and requires considerable effort to prove one's worth. A first job for a person with a disability implies the need for the working environment to become accustomed to the person as he/she is from the start of his/her work, and for the working environment to accept any limitations the PwD may bring. For this reason, a return to the same working environment after an occurrence of disability is hardest, in psychological terms.

Examples:

Example 1

A girl was completely blinded at the age of five. She was educated in a school for the blind, where she completed elementary education. She rejected occupational limits and completed secondary school within the regular education system. Subsequently, she graduated from the Faculty of Philosophy with a degree in library science, which can be seen to be extremely challenging and gratifying for a person with these physical limitations. She found a job as a librarian in a major firm, where she spent most of her working life. This person spent her education and working life in a so-called healthy environment.

Example 2

A girl was disabled from birth. She lived in an environment that was protective, but which worked to her disadvantage. She completed regular elementary education, but stopped there. She felt she had greater potential, but her suburban environment and her family did not support her. Through socializing with other PwDs, she gradually became involved in various workshops and craft-based jobs. There she recognized new possibilities, and focused increasingly on self-development. She started to receive informal education, and in time she returned to the regular education system, and completed secondary school. She became involved in other types of NGO activities and today she is a highly capable young woman with a severe disability, who is a successful activist in an NGO.

This demonstrates the importance of the non-governmental sector and of new approaches to disability that are being promoted, as well as of the support provided by the legal framework.

Example 3

A university-educated woman suffered a traumatic injury and was confined to a wheelchair after spinal surgery. She had previously held a very responsible job in the public sector, but due to the type of disability and her inability to move, she could not perform the same job as before. Her working environment was fully supportive, and replaced her previous job with a different type

of job at the same level, and she returned to her old working environment. At present she is very successful in the job for which she was educated, and which she currently performs without the need for any additional training or re-training. Despite the limitations that are to be expected due to disability in a completely 'healthy' environment, she is satisfied with her job.

Here we had the burden of psychological pressure in the return of a person who had become disabled, and of her trauma in accepting herself, but also of the acceptance of an environment that was able to show greater compassion for her than for other PwDs they did not know.

In support of these examples of good practice, one must stress that persons with disabilities must not be seen as a burden, or as inferior employees. On the contrary, employers' surveys found that persons with disabilities are very serious employees, who are loyal and competent, less likely to be absent from work, and stay longer in their jobs. In addition, their presence frequently lifts morale in their working environments, and they motivate other employees.

Conclusions and Recommendations for Policies and Options for the Improvement of Institutional Mechanisms, and Solutions for Employment and Self-Employment of PwDs in Bosnia and Herzegovina

Persons with disabilities are in an inferior social position in Bosnia and Herzegovina, despite the laws and decrees that should protect their rights.

Additionally, there is a great number of international acts that regulate the rights of persons with disabilities. However, implementation of these acts and regulations is not aligned with the needs of PwDs. Inadequate implementation of the legislation on persons with disabilities makes them a marginalized group in Bosnian and Herzegovinan society.

In view of the overall situation – including architectural (in)accessibility, and various forms of discrimination against persons with disabilities – considerable efforts are required to ensure unhindered movement, work and education for persons with disabilities, the elimination of prejudices through the education of persons without disabilities, and the retraining of a large number of unemployed and uneducated persons with disabilities.

An unbelievably high rate of persons with disabilities who are on the edge of poverty is shameful for any society, and in particular for Bosnia and Herzegovina.

The need to take action is indubitable. This inevitability arises not only to improve the quality of life of persons with physical disabilities, but also to improve the situation of society as a whole in Bosnia and Herzegovina.

If positive changes can be achieved in this domain (employment and professional training), Bosnia and Herzegovina will draw closer to its goal of joining the European Union, the benefits of which are well known. Decision-makers in Bosnia and Herzegovina must take steps to implement reforms with regard to the employment and professional training of persons with disabilities, so that their nation can experience the positive consequences of joining the European Union. Although this issue was previously on the sidelines of political discourse, nowadays attitudes towards persons with disabilities have become a major issue for all European countries.

Among issues such as cash benefits, access to public places and facilities, health care and prevention of discrimination, the problem that stands out is how to ensure real options for employment of all persons with disabilities, regardless of circumstances, i.e. the causes of disability.

In the post-war period, with the intention to mitigate its consequences, the issues of social insurance and social assistance, social and medical services, professional rehabilitation for all persons with disabilities, including those whose disabilities are the consequence of unsafe workplaces, accidents, diseases or congenital conditions, gained in importance.

Along with the ongoing processes of economic and political transition, it is necessary to switch priorities from simple transfers of income to persons with disabilities, to their reintegration into the labor market.

To this end, all strategies and policies should:

- shift focus from the medically-oriented approach to persons with disabilities to mechanisms that enhance their work potential (employment, job retention and return to employment);
- examine current provisions on providing cash benefits to persons with disabilities in the light of de-motivation of such persons to find employment in the first place, or to return to their workplaces;
- strengthen the links between health and professional rehabilitation and national retirement programs, so that they can act together with the focus on promotion of employment;
- avoid use of programs for persons with disabilities to meet other social needs, such as unemployment protection, in order to prevent the dissipation of already insufficient public funds that persons with disabilities sorely need;
- place emphasis on the repositioning of programs of assistance to persons with disabilities to such a location that would permit achievement of their full potential as adult persons capable of work.

Sources:

- UN Declaration on the Rights of Persons with Disabilities, 1975 (Resolution 34/47);
- European Social Charter (revised, Strasbourg, 1996);
- European Strategy for Persons with Disabilities 2010-2020/SEC(2010) 1323/1324;
- European Employment Strategy, European Commission, Brussels, 2003, COM2003/6;
- Convention 159 on Professional Rehabilitation and Employment of Persons with Disabilities, International Labor Organization, 1983;
- UN Convention on the Rights of Persons with Disabilities, 2006;
- UN International Covenant on Economic, Social and Cultural Rights, 1966;
- General Declaration on the Rights of Men, OUN General Assembly, 1948;
- Policy in the Area of Disability in Bosnia and Herzegovina, Bosnia and Herzegovina Council of Ministers, 2008, BiH Official Gazette no. 76/08;
- Standard Rules on Equalization of Opportunities for Persons with Disabilities, OUN General Assembly at its 48th session (Resolution 48/96);
- Strategy for Improvement of the Social Position of Persons with Disabilities in Republika Srpska, 2010-2015 (Republika Srpska Official Gazette, no. 134/11.)
- 2010-2014 Federation of Bosnia and Herzegovina Strategy for Equalization of Opportunities for Persons with Disabilities;
- The Constitution of Bosnia and Herzegovina;
- The Constitution of the Federation of Bosnia and Herzegovina;
- The Constitution of Republika Srpska;
- Law on Pension and Disability Insurance; Official Gazette no. 105/06, 20/07 i 33/08;
- Law on Employment Intermediation and Social Security of Unemployed Persons of the Federation of Bosnia and Herzegovina, FBiH Official Gazette no. 41/01;
- Law on Employment Intermediation and Social Security of Unemployed Persons of the Federation of Bosnia and Herzegovina, FBiH Official Gazette no. 34/10;
- Republika Srpska Law on Professional Rehabilitation, Training and Employment of Disabled Persons, RS Official Gazette no. 98/04 i 91/06;
- Labor Law – Consolidated Text, RS Official Gazette no. 55/07;
- The Labor Law of the Federation of Bosnia and Herzegovina, FBiH Official Gazette no. 43/99 and 32/00;
- Employment Law, RS Official Gazette no. 54/05 and 64/06;
- Occupational Safety Law, RS Official Gazette no. 01/08.

THE CONCEPT OF 'DISABILITY' IN THE LEGAL FRAMEWORK – STATUS AND TRENDS

Introduction

The field of disability is complex, as is the concept of disability itself (lat. *in-validus*, valueless, incapable). The term 'disability' implies, due to an impairment (bodily, intellectual, or mental), a certain loss of ability, either wholly or in part. The term's negative connotations are a consequence of the view to focus on the impairment and its treatment instead of remaining abilities and their functionality. Causes differ (genetic, congenital, consequence of illness, war, accident, old age or poverty), but most often manifest as organic impairments at any age. For this reason, early detection of disabilities and preventive medical action are important.

In this overview of disability in Bosnia and Herzegovina, it is possible to cover only the most prominent aspects of the areas most closely interrelated with disability, and to discuss those segments of the current applicable legislation that are important, potentially important or that relate to the concept of disability in its broadest sense.

Furthermore, disability as a concept may present itself in any field of law. Legal standardization of general acts is conducted for possible social relations scenarios, and applies to all stakeholders. Persons with disabilities are among the stakeholders in social relations and therefore may appear in any field of law. Rule 15 of the Standard Rules for Equalization of Opportunities for Persons with Disabilities¹⁰ (hereinafter: Standard Rules for PwDs) stipulates that disability may be legislated by both general and special laws. It also states that disability may be incorporated into legal norms on specific issues affecting persons with disabilities, by special mention in legislative interpretation texts, and that all above approaches can be combined. The legislation of Bosnia and Herzegovina is in full compliance with this standard, and the description of its legal framework in this analysis will follow the same principle.

Regarding the content to be presented, the author considered organizing it on the basis of the Convention on the Rights of Persons with Disabilities (by individual rights), or of a different principle (e.g. by branches of law), but instead chose to use the Standard Rules for Equalization of Opportunities for Persons with Disabilities (i.e. the approach of fields and sectors covered in these rules) as a base, in order to better focus on persons with disabilities.

One peculiarity of Bosnia and Herzegovina as a country with two entities (Republika Srpska and the Federation of Bosnia and Herzegovina, the latter being divided into 10 cantons) and the Brcko District, is its five levels of legal regulation. This makes the implementation of all its laws and by-laws complex and overly comprehensive. The problem is not that it would be impossible

10 BiH Council of Ministers, Decree on Adoption of the Standard Rules on Equalization of Opportunities for Persons with Disabilities (BiH Official Gazette no. 41/03).

to collate all these laws, but that most legislative solutions are identical or similar, so it seems unnecessary to repeat them even within regulations of different levels and jurisdictional scope. For these reasons, the author's approach has been to present the key segments, highlighting differences or specific elements of the legal framework at the level of the State of Bosnia and Herzegovina and its entities, while legislative solutions on the cantonal levels will be only listed, and absence of legislation in a given area will be noted.

Analysis of the Current Legislation on Disability, with a Focus on Entity Regulations in the Federation of Bosnia and Herzegovina and Republika Srpska

The 1995 General Framework Agreement for Peace with 11 annexes (containing Annex VI on human rights) includes Annex IV, which is the Constitution of Bosnia and Herzegovina. Article II requires the state and the entities to ensure the highest level of recognized human rights and basic freedoms, while the rights and freedoms contained in the European Convention on Human Rights and Fundamental Freedoms and its protocols, which apply directly, have priority over all other law. Point 3 of the same article lists the rights and freedoms of the European Convention. Point 4 defines the principle of non-discrimination on any basis. Point 6 requires all state and entity institutions and courts to apply these constitutional provisions and 15 international conventions with the legal power of the constitutional provisions (Annex I to the Constitution).

The Federation of Bosnia and Herzegovina Constitution, lists in Chapter II, Article 2, the rights of all persons in the Federation, as well as 21 instruments for the protection of human rights with the legal power of constitutional provisions (Annex to the Federation of Bosnia and Herzegovina Constitution). The rights of persons with disabilities are doubly guaranteed: a) the right to equality before law and rights equal to those of other citizens and b) special protection of minorities and potentially vulnerable groups.

Article 5 of the Constitution of Republika Srpska guarantees the protection of human rights and freedoms in conformity with international standards. In Section II, Human Rights and Freedoms, it safeguards all listed rights, and in articles 10-49 it provides protection for all citizens. Article 40 provides for special protection in the workplace for women, as well as young and disabled persons. Amendment XXXII, which regulates the competences of the entity, i.e. of Republika Srpska, stipulates that all domains and sectors relevant for persons with disabilities (including health care, education, social protection, and labor and employment) are within the competence of the entity government bodies.

Legislation and by-laws (which should not contravene constitutional provisions) should conform and further develop this high standard of human rights and freedoms, and ensure that their application will uphold the first principle of the rule of law: equality of all citizens before the law.

For various reasons, however, the situation in entity legislation is such that across its sectors there is not a single field which is free from discrimination of individuals and social groups. As there is broad agreement that cantonal governments have 'seized' even those competences which had been otherwise envisaged and regulated by the constitution, one cause of inequality lies in variation between cantonal laws. In Republika Srpska, it is evident precisely in the domain of disability that there are also discriminatory provisions affecting some social groups,

even though there is only one level of legislation. One of the legal profession's greatest challenges is to harmonize legal norms with international standards, thus contributing to the elimination of discrimination. This standardization should be complemented with the development of a financial framework for multiannual budgeting, as one instrument for promoting the successful application of legal regulations.

According to the Standard Rules for the Equalization of Opportunities for Persons with Disabilities, equalization of opportunities is a process within which various systems in society and the environment (agencies, activities, information, documentation etc.) become available to all, and in particular to persons with disabilities. The very term 'process' means that this transcends mere legislation and measures and actions of the government, to involve the environment within which they must operate. This includes all elements of society, civil sector organizations, the private sector, informal groups, and individuals. The Standard Rules for PwDs determine areas for action, and outline measures and steps to be taken to advance the process of the equalization of opportunities. The subsequent analysis shall present the existing legislation in areas of crucial importance for the equalization of opportunities. This should not minimize the significance of other areas that cannot be presented here. Rules 1-4 constitute the preconditions for participation on equal terms, Rules 5-12 are the areas for equalization of opportunities, while Rules 13-22 are application measures.

Rule 1. Awareness-raising; Rule 2. Medical care; Rule 3. Rehabilitation; Rule 4. Support services; Rule 5. Accessibility; Rule 6. Education; Rule 7. Employment; Rule 8. Income maintenance and social security; Rule 9. Family life and personal integrity; Rule 10. Culture; Rule 11. Recreation and sports; Rule 12. Religion; Rule 13. Information and research; Rule 14. Policy-making and planning; Rule 15. Legislation; Rule 16. Economic policies; Rule 17. Coordination of work; Rule 18. Organizations of persons with disabilities; Rule 19. Personnel training; Rule 20. National monitoring and evaluation of disability programs implementing the Rules; Rule 21. Technical and economic cooperation; Rule 22. International cooperation.

The Bosnia and Herzegovina Law on Prevention of Discrimination¹¹ stipulates that it is forbidden to extend unequal treatment on any basis (some possible reasons are listed) to persons before any government body or institution at any level, and to legal or physical persons in any domain of life, with particular mention to social protection, protection of families and children and protection of persons with disabilities. The Law permits exceptions, which can apply to persons with disabilities if such treatment is based on objective and rational justification, and achieves a legitimate goal. On the basis of this so-called 'positive' discrimination, one may claim that there is always the possibility to establish such norms that would lead to ensuring the principle of equality before law.

Income Maintenance and Social Security – Rule 8

For persons with disabilities, the social, health care, education and employment sectors are crucial. This state is a natural consequence of disability, which, depending on its origin, may prevent a person from completing his/her education, which might later restrict or completely prevent him/her from participation in the labor market. Alternatively, if disability occurs during a professionally active period of life, it may hinder the person's ability to perform his/her job, or completely prevent

11 Bosnia and Herzegovina Law on Prevention of Discrimination (BiH Official Gazette no. 59/09).

functionality and execution even of a simplified workload, thus creating the need for ensuring health care and social security for such a person. Theories of society and economic relations have long shown that exclusion from social relations is most pronounced when the person is unable to earn income from his/her labor. This creates a situation of dependence on others, be it family or the government, and this is exactly why most measures and activities in the Standard Rules for PwDs deal with this area. These measures are within the competence of the entities, which in the Federation of Bosnia and Herzegovina means that governance is shared with its cantons.

Labor Legislation and Pensions – Disability Insurance

The entity labor laws¹² (in their respective Articles 5), contain a protection clause on banning discrimination, including of physical and mental health (Republika Srpska) or physical and mental disorders (Federation of Bosnia and Herzegovina). The Federation law extends special protection to persons 15-18 years old, women, and parents. Health care and other rights are provided in the event of illness, reduction or loss of the (temporary or permanent) ability to work, and old age, as is the right to other forms of social security. Employers are prohibited from terminating labor contracts for the duration of an employee's inability to work (due to illness, treatment, rehabilitation etc.), and are required to provide requalification programs, offer alternate jobs, or support excess employees. The Republika Srpska Labor Law also contains provisions for the special protection of ill and disabled workers. However, from interviews conducted with the centers of social work in both entities within the framework of the study 'Non-Contributory Benefits for Social Inclusion in Bosnia and Herzegovina – What Works and What Does Not', prepared by the Initiative for Better and More Humane Inclusion (hereinafter the IBHI study), it is evident that the rights of workers are violated on a mass scale. This occurs through the failure of payment of health care and pension contributions and unemployment insurance, making it impossible to exercise rights within these systems, and forcing many to turn to social protection institutions for assistance with treatment costs or meeting subsistence needs.

The pension and disability insurance laws¹³ treat pension and disability insurance rights in a very similar manner. There are certain differences in the area of eligibility for the old-age pension (retirement age and years of work) and the family pension (in Republika Srpska the age limit was raised from 45 to 50 for women, while the age limit for men is 60), but the fundamental rights are as follows: the right to an old-age pension; the right to disability benefits; the right to a family pension; and rights based on a change in the ability to work. The Federation law stipulates the presence of disability when, due to lasting changes to the state of health caused by an injury at work, a professional disease, injury outside the workplace or an illness that cannot be cured by treatment or medical rehabilitation, a person becomes unable to perform the tasks he/she had performed prior to the occurrence of disability. If the person may continue to perform other tasks in full capacity (with or without retraining or additional training), this is classified as a change of the ability to work. If this is not the case, it is categorized as a complete loss of the ability to work. The law recognizes such persons as disabled workers, and they are eligible for disability pensions set as a percentage of their last full wage, depending on the duration of the work history, and its coverage by pension insurance payments during that period. The law defines what

12 Federation of Bosnia and Herzegovina Labor Law (FBiH Official Gazette no 43/99, 32/00 and 29/03) and Republika Srpska Labor Law (Official Gazette no. 55/07).

13 Pension and Disability Insurance Law (RS Official Gazette no. 134/1, 82/13), Pension and Disability Insurance Law (FBiH Official Gazette 29/98, 49/00, 32/01, 59/06, 4/09, 55/12).

constitutes an injury at work, and also what defines a professional disease. A special benefit is a benefit for physical incapacitation which requires an added effort to meet living needs, regardless of whether this state was the cause of the disability. This benefit may be received if the degree of disability is no less than 30% in accordance with the Law on Types and Percentages of Physical Disability (FBiH Official Gazette no. 42/04, 48/05), and if it was a result of an injury at work or a professional disease. Republika Srpska law stipulates the right of reassignment to another job, and retraining or additional training (in addition to old-age and disability pensions). This law defines disability in more detail within the system of voluntary insurance (when a person him/herself pays pension and disability insurance contributions), and applies when full inability to earn income occurs, which happens when the person is unable to perform even the simplest tasks, due to the severity of his/her illness. 'The simplest tasks' are not defined. This provision equates an injury in the workplace with an injury received in military service during an armed conflict, or a resulting illness. When reassigning an insured person to a lower-level job, where a lower level of education is required, it is necessary to obtain an agreement from him/her, which contradicts the entire purpose of prevention of social exclusion and application of the social model. On the other hand, this way offers PwDs the right to choose. There are no provisions covering the possibility of rejection of the proposed jobs, nor are there limits to the number of such rejections. This law also covers the risk of the occurrence of disability when, despite workplace safety measures, reassignment to other jobs becomes imperative. This problem should be covered in greater detail (the area of prevention) in labor legislation, rather than in that of pension and disability insurance, since in the above cases the person has not yet attained the status of a beneficiary of the pension and disability insurance. In this case, in the event of disability, regardless of the duration of employment, the insured person is guaranteed a minimum pension equal to the insurance period of 15 years (which equals minimum coverage for receiving the old age pension). Regarding the right to the family pension (family members of insured persons receiving old-age or disability pensions are eligible), the law sets the minimum age for spouses or parents (50 and 60 years of age, respectively, for wives/mothers and husbands/fathers). However, this minimum age does not apply to persons applying for family pensions for insured persons who earned such pensions through military service in the period of 17 August 1990-19 June 1996. In the case of voluntary insurance, insured persons do not have rights in the event of workplace injury or professional disease. Both entities maintain mandatory records for this area, which cover categories of persons with disabilities.

Social Protection

From the standpoint of access to benefits for persons with disabilities, the most complex and contradictory situation is in the domain of social protection. In the Federation, the legislative competence for social protection is divided between the Federation and the cantons. The categories covered by social protection are the categories included in the Federal Law on the Foundations of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (FBiH Official Gazette no. 36/99, 59/04, 42/06 and 14/09), as well as by related cantonal laws, while benefits for the veteran population are regulated by a special law. In this way, persons with disabilities are divided by its cause, i.e. persons with non war-related disabilities, persons with war-related disabilities, civilian victims of war and, as a separate category, children with disabilities within the framework of social protection of children. In accordance with the different causes of disability, there are differences in a person's eligibility for benefits. Persons with non war-related disabilities are eligible solely if they are considered to be between 90 and 100% disabled. The law

establishes the categories (adults and children) to whom this disability level applies, and these categories are: the blind and visually impaired; the deaf and hard-of-hearing; persons with speech and voice impairments; persons with physical damage to their bodies; persons with permanent disorders in psychological development (to mild, moderate, severe and profound degrees); and persons with combined disorders (multiple developmental problems). Benefits these persons may receive are cash benefits (personal disability benefit, long-term care and support benefit, orthopedic benefit) and non-cash benefits (assistance with treatment costs or purchase of orthopedic aids), as well as training or rehabilitation and priority of employment. Civilian victims of war are eligible for benefits if: the degree of damage to their bodies exceeds 60% and was caused by wartime military actions; they are family members of persons who disappeared or were killed in wartime military actions; they were subjected to sexual abuse and/or rape (as a separate category of civilian victims of war); or if they were victims of fascist terror, or family members of victims of fascist terror, who were eligible for this right prior to 1991. The status of civilian victim of war is recognized even if there was subsequent bodily damage, or a manifestation or deterioration of the state of health, that is related to the circumstances of war. Civilian victims of war enjoy the same rights as persons with non war-related disabilities, with the addition of family disability benefits, priority housing and psychological and legal aid. Besides the above mentioned rights, in a broader sense it is also possible to include the right to placement in foster care and in social protection institutions. Funds for such purposes are charged against the assets of the beneficiary in question, or a member of his/her family who is legally required to provide support. Namely, both entity family laws establish the obligation of mutual support between relatives, in order of kinship, and if the person has neither relatives nor assets, funding is provided from the budget. Additionally, care or assistance at home may be provided, as may assorted counseling services within a counseling center. As special protection for children, the following rights are provided: cash benefits for mothers in place of wages (for employed women); cash assistance during pregnancy and delivery (for non-working women); baby care packages; psycho-social treatments for pregnant women and couples desiring children; placement in pre-school institutions with board and a meal in elementary schools; and the child-care allowance. As most of these benefits are funded from the cantonal budgets on the basis of cantonal laws, discrimination in this segment is widespread. Some cantons apply the 'dual track principle' in their laws, to give benefits to children with disabilities without assessing their eligibility through means testing, and to raise the level of the child-care allowance. For example, the Sarajevo Canton applied this principle, while the Zenica-Doboj Canton did not, and the Una-Sana Canton pays neither child-care allowances nor maternity benefits.¹⁴ However, discrimination is not present just in the area of child protection; some cantons have simply ceased to provide social services such as care and assistance at home, or reduced counseling services, due to their lack of capacity to implement such services, be it in terms of premises, staff or funding.

The rights of veterans and their families are covered by several laws¹⁵, including cantonal laws. These persons are eligible if their disability ranges from 20-100%, and are divided into 10 categories. Beneficiaries receive the personal disability benefit in the percentage envisaged for the given category, with a base set by the Government of the Federation of Bosnia and Herzegovina.

14 The IBHI study 'Non-Contributory Social Protection Benefits in BiH – What Works, and What Does Not?' – IBHI, 2013. states that child-care allowances were paid by the Tuzla, Zenica-Doboj, Bosnian Podrinje, Central-Bosnia and Sarajevo Cantons.

15 The Law on the Rights of Veterans and their Family Members (FBiH Official Gazette no. 33/04, 56/05, 72/07, 9/10), Law on the Special Rights of Recipients of Wartime Awards and Decorations and of Their Families (FBiH Official Gazette no. 70/05, 61/06, 9/10).

Persons with a degree of disability between 60 and 100% (categorized in 3 levels) are eligible for the long-term care and support benefit, as well as for the orthopedic benefit. Family members of a killed, otherwise deceased or missing veteran are as follows: the family disability benefit; the augmented family disability benefit; and assistance in the event of death. Other rights are provided by cantonal regulations and vary extensively. These rights include free textbooks, priority in education, employment or renting of business premises, and exemption from paying rent for land intended for construction. Besides this, recipients of some war-time decorations are eligible for a monthly cash allowance.

The situation in Republika Srpska is similar in terms of its categories of persons with disabilities, although the system is somewhat differently arrayed in the child protection segment. Namely, in this entity a 1.5% contribution is levied on gross wages and other income-type payments, which is then used to fund the child protection benefit. In addition, there are separate laws¹⁶ for each category of beneficiaries of social protection, and benefits are funded 50:50 by the entity and units of local government (municipalities), respectively.

Child protection benefits include: wage refund during maternity leave (for employed mothers); maternity benefit; a baby care package; child-care allowance; meeting children's developmental needs; pre-school care and education of children without parental care, of children with developmental disorders and of children in long-term medical treatment; and rest and recreation programs for children below age 15 in children's homes.

The child-care allowance is conditioned by proxy means testing. Children over 15 are ineligible, as is the first-born child, so this allowance appears not to be in conformity with children's rights, as defined by the Convention on the Rights of the Child (equal treatment). Furthermore, as per the Family Law, a child is any person under the age of 18, when full working capacity is attained (unless he or she enters into a marriage earlier), which also constitutes a kind of discrimination. Children with developmental disabilities are eligible for this benefit until the age of 19. Unemployed mothers receive the maternity benefit for one year (valid for three children). Employed mothers receive compensation from their employers, who receive refunds from the Republika Srpska Child Care Fund.

Beneficiaries of social protection are: a) children without parental care, with developmental disorders, whose development has been impaired by family circumstances, victims of violence, victims of child trafficking, children who display socially unacceptable behavior or are exposed to socially risky behaviours, and children needing social protection due to special circumstances; b) adult persons who are materially insecure and persons unable to work, persons with disabilities, elderly persons without family care, persons with socially unacceptable behavior, victims of abuse of psycho-active substances, victims of family violence, victims of human trafficking and persons in need of social protection under special conditions. The benefits available include: a cash benefit, a long-term care and support benefit; support for the equalization of opportunities of children and young persons with developmental disorders; placement into institutions; placement into foster care; assistance and care at home; day care; one-off cash assistance; and counseling. Support for the equalization of opportunities of children and young persons with developmental disorders is provided in the form of compensation for: costs of accommodation; costs of inter-city transport to the price of a monthly ticket; and costs of transport once a month

16 Law on Social Protection (RS Official Gazette no. 37/12),
Law on Child Protection (RS Official Gazette, 4/02, 17/08, 1/09).

by the lowest-cost ticket to the place of residence, if the institution is outside this area. There has also been an introduction of the right to use the services of the day care centers, which provide a range of services, including food, care, observation, health care, education, psycho-social rehabilitation, occupational therapy and other services. These centers offer endless possibilities in providing support for the equalization of opportunities for persons with disabilities.

Civilian victims of war¹⁷ are treated similarly as in Federation law. Benefits for this category were, by law, conditioned by means testing. However, this testing was never administered because the appropriate by-law required has never been adopted. The disability range for eligibility is from 60-100%, and falls into six categories. Apart from the personal disability benefit, civilian victims of war are eligible for the long-term care and support benefit (a cash benefit exclusively for the I disability category). Family members of persons killed, missing or deceased due to the consequences of wartime military actions may also be eligible for a disability benefit. Family members of a person unable to work or of a single parent may be eligible for an allowance (unless the civilian victim of war has relatives who are legally required to provide support, or such persons lack adequate resources). The rights of this category also include the right to health care, according to health care regulations.

The veterans' protection covers soldiers and members of the military (both wartime and peacetime disabled) and the families of deceased soldiers and deceased persons who were disabled as a result of military actions¹⁸. The Law on the Rights of Veterans, Disabled War Veterans and Families of Deceased Soldiers of the Homeland Defense War of Republika Srpska (RS Official Gazette no. 134/11, 9/12 and 40/12), along with its by-laws, constitutes a comprehensive document and includes the following benefits: a personal disability benefit; a long-term care and support benefit; a veteran's allowance; an orthopedic benefit; supplementary cash assistance; a family disability benefit; an augmented family disability allowance; health insurance; rehabilitation; subsidized housing; education; and other privileges. Eligibility is not conditioned by a proxy means test. As in the Federation law, the percentage of disability required for eligibility ranges from 20-100%. Relatives, members of the extended family (grandmother, grandfather or others, if living in the household as an economic unit) are eligible for the family disability benefit.

Interviews conducted in 30 centers of social work (15 in the Federation of Bosnia and Herzegovina and 15 in Republika Srpska) and focus groups of representatives of public services and beneficiaries of social protection who took part in the IBHI Study, unequivocally revealed the existence of discrimination against persons with disabilities by origin, as well as by territory of residence and by benefit levels. Discrimination is also present among other groups of beneficiaries, particularly in child protection and protection of families, i.e. in unequal treatment of women/mothers and children. The vast range of benefits available to veterans, without any requirement for proxy means testing, is in contrast to the child-care allowance, which requires it. This reveals a social protection system which lacks an integral approach, and poses the question of its functionality both from the perspective of beneficiaries and from the standpoint of rational and efficient allocation of public resources.

17 Law on the Protection of Civilian Victims of War (RS Official Gazette no. 24/10).

18 While the terminology used in the international documents suggests use of 'persons with disabilities', the legislation of Republika Srpska utilizes the term 'disabled person', so the original legislative formulations are retained here.

Health Care

Due to the special interest of society, certain regulations in the health care sector are governed at the state level. These are: the Law on Medications and Medical Devices (BiH Official Gazette no. 58/08), the Law on Radiation and Nuclear Safety in Bosnia and Herzegovina (BiH Official Gazette no. 88/07) and the Law on Prevention and Eradication of Abuse of Narcotics (BiH Official Gazette no. 8/06). These laws treat special and sensitive substances deleterious to the health of the population, that require special handling, safekeeping and control measures.

The Law on the Use of Sign Language is also regulated at the level of the state of Bosnia and Herzegovina¹⁹. In the law's definition, sign language is the language of deaf persons, i.e. a visual-signing language system with specified settings, directions, positions and movements of hands and facial expressions. The law defines deaf persons as persons who are wholly without hearing, and who use sign language as their natural language. Deaf persons are entitled to sign language interpretation before the bodies and institutions of Bosnia and Herzegovina through sign-language interpreters (interpreters must be adults possessing appropriate certificates for sign language knowledge and skills). The law also establishes the requirement that sign language interpretation must be provided during live or taped screenings of sessions of the bodies and institutions of Bosnia and Herzegovina in the audio-visual media. Further, it requires the entities and cantons to adopt regulations on: the use of the sign language; the manner and procedure for determination of the status of a deaf person; a record-keeping system and issuance of identity cards for deaf persons; sign-language interpreters; and special sign-language interpreters for students. Implementation of these measures in practice is still unsatisfactory, and they are seen as optional rather than mandatory (Sarajevo Canton adopted the cantonal Law on Sign Language).

Health care for persons with disabilities is provided in accordance with entity laws. In the Federation, these are the Law on Health Care and the Law on Health Insurance²⁰. Persons with disabilities are entitled to all three levels of health care (primary, specialist-consultative and hospital care, and, as an integral part of the system, centers for mental rehabilitation and centers for physical rehabilitation). The Decision on the Establishment of the Basic Health Care Rights Package in the Federation of Bosnia and Herzegovina (FBiH Official Gazette no. 21/09) defined the minimum set of health insurance benefits. The List of Orthopedic and Other Aids, the List of Medications and the List of Benefits Not Covered By Health Insurance (spa treatments – unless for the purpose of rehabilitation – prostheses, medications not included on the List of Essential Medications etc.) are components of this Decree. However, while taking advantage of their right to further regulate these matters by by-laws, the cantons very often infringe upon the rights of persons with disabilities, by failing to recognize certain rights, or reducing already established ones. For the protection of public interest and persons who, due to the nature of their illnesses, may endanger their own lives or the lives of others, the health services package covers uninsured persons who suffer from progressive neuro-muscular diseases, cerebral palsy, multiple-sclerosis, paraplegia, and quadriplegia, while mental disorders are covered by a special law²¹. The law covering persons with mental disorders particularly prohibits inhumane treatment, torture, abuse of biomedical research, and forced detainment or institutionalization (applicable not only to medically diagnosed persons, but also to alcoholics and drug addicts). The cost-sharing in certain types of health care, required by law, does not apply to

19 Law on the Use of the Sign Language in Bosnia and Herzegovina (BiH Official Gazette no. 75/09).

20 Law on Health Care (FBiH Official Gazette no. 46/10, 75/13) and Law on Health Insurance (FBiH Official Gazette no. 30/97, 7/02, 70/08, 48/11).

21 Law on the Protection of Mentally Ill Persons (FBiH Official Gazette no. 37/01, 40/02, 52/11, 14/13).

social protection categories, persons with disabilities of over 60%, or persons affected by paraplegia, quadriplegia, muscular dystrophy, multiple sclerosis, cerebral palsy, or mental disorders (as well as persons over 65 years of age and persons suffering from acute conditions). Primary health care for institutionalized persons is provided in the institutions in which they are accommodated.

Cantonal regulations, particularly concerning the right to orthopedic and other aids, vary, as does the level of cost-sharing with regard to health care services for paying beneficiaries. When we compare the state of health care for persons with disabilities relative to other categories of the population, we can see that, because of the Federal regulation on exemption from cost-sharing and the minimum health care rights package, persons with disabilities enjoy equal treatment at the Federal level. This is not true of the cantonal regulations for other categories of the population. Continuing efforts to extend the List of Essential Medications with inexpensive generic medications will result in the increased availability of free medications for a broader set of patients with more acute diagnoses (which frequently include persons with disabilities).

The Law on the Rights, Duties and Responsibilities of Patients (FBiH Official Gazette no. 40/10) standardized to a considerable extent the rights of every patient to make decisions about his/her treatment, including the selection of physicians, methods of treatments, and awareness of rights during hospital treatment. This is due to the fact that the dignity of the patient and his/her right to physical and mental integrity and personal safety have been introduced as its leading principles.

In Republika Srpska, health care is provided on the basis of similar health care laws²². Great progress was achieved with the adoption of a set of policies that include: the 2011-2016 Early Growth and Development of Children Policy; the 2009-2015 Mental Health Policy and Mental Health Development Strategy in Republika Srpska; and a series of programs in the health care sector. The law established who the insurance contributors were, and accessibility of health care services was prescribed by law. As in the Federation of Bosnia and Herzegovina, primary health care is provided within the system of family medicine, with networks of centers for the protection of mental health, and centers for out-patient physical rehabilitation. Within the framework of secondary and tertiary care, through various programs and projects, medical and other personnel have been trained and equipped for modern techniques, and treatment methods have been procured. This is particularly applicable to hospital care. The function of the Protector of Insured Persons (an official of the Republika Srpska Health Insurance Fund) is an interesting one, his/her role being to communicate with insured persons and the institutions with which the Health Insurance Fund holds contracts. Professional rehabilitation and retraining programs for assistance in finding employment are partially regulated by pension and disability insurance and special laws. Orthopedic and other aids are provided in accordance with the Rule Book on the Right to Orthopedic and Other Aids²³. The Law on Protection of Mentally Ill Persons (RS Official Gazette no. 46/04) prescribes the protection of this category, which includes persons with disabilities. It is curious that this law defines a child as a person under the age of 14, while a minor is a person under the age of 18 (this division is similar to the age classification in the criminal code). The Republika Srpska Family Law also defines a child as a person under the age of 18.

The laws on artificial insemination are currently being drafted, and will legally regulate another area of health care when completed.

22 Law on Health Insurance (RS official Gazette no. 18/99, 51/01, 70/01, 51/03, 57/03, 17/08, 01/09, 106/09) and Law on Health Care (RS Official Gazette no. 106/09).

23 Rulebook on the Right to Orthopedic and Other Aids (RS Official Gazette no. 42/09, 51/09, 64/09, 101/09, 2/10, 10/10, 73/10, 101/10, 17/11, 42/11).

Education

Education is governed by the entities (or the cantons in the Federation of Bosnia and Herzegovina), but is one of the rare sectors which has framework laws for all three of its levels²⁴. Both Republika Srpska and cantonal laws draw upon these acts. All types of educational institutions may be both public and private, but they are equal in terms of licencing requirements and requirements for entering into public registries. Discrimination on any basis is prohibited.

Pre-school education nominally takes into account the child's degree of development, particularities of his/her developmental abilities, his/her individual needs (Article 5 of the Framework Law). This is intended to ensure that the child's best interests are met (Article 7), regarding optimal development (Article 9), the right to language development (Article 10) and observance of religious freedoms (Article 11), the right to integration programs for children with special needs (Article 12), and the right of parents to the choice of institutions and other decision making (Article 13). In the event that work with children with special needs cannot be conducted in regular pre-school institutions, it may be conducted in special ones. It is worth mentioning that the terminology in all systems often uses the term 'children with special needs', which does not fully correspond either to terminological or actual meanings of 'children with disorders or disabilities'. Namely, children with developmental disorders are children with congenital or acquired physical disabilities, which require an entire range of specialized procedures in order to preserve the child's greatest possible physical and intellectual integrity. Children without impairments may also have special or additional needs (transitory, permanent or potential), which are normally a result of external factors, such as: premature birth; an incomplete family; the long illness of a family member; the birth of a brother or sister; the death of a close family member; being a gifted child or a gifted child with developmental difficulties; and the need of foreign children for language learning, to enable faster inclusion in regular classes. Therefore, special needs need not, but may, require special educational programs, while in the case of children with developmental problems (particularly severe ones), special educational programs are generally necessary. The intent of the modern, inclusive approach is to include these children in regular programs and institutions to the greatest possible extent. This is applicable to both elementary and secondary-school children. Article 4 of the Framework Law on Elementary and Secondary Education defines equal access and equal opportunities as ensuring equal conditions and opportunities for all children to commence and continue further education, permitting them to develop their innate and potential intellectual, physical and moral abilities at all levels of education. Parents may not exercise their right to choose education for their child by promoting prejudices centered on any of the bases for discrimination (race, gender, nationality, language, religion etc.). Only private international schools are exempt from teaching the mandatory curricula, and curricula that do not fully cover the common core of defined curricula. Education of children with disabilities is conducted in specialized institutions, in special classes in regular schools, or within the regular education system. Some training may take place in specialized day care centers or workshops focused on the acquisition of certain skills, and higher education is provided by universities or colleges. Although efforts to implement the principle of inclusion to the greatest possible extent persist, this sector is admittedly one of the weaker links. This is characterized by its

24 Framework Law on Pre-School Education in Bosnia and Herzegovina (BiH Official Gazette no. 88/07), Framework Law on Elementary and Secondary Education (BiH Official Gazette no. 18/03), Framework Law on Higher Education (BiH Official Gazette no. 59/07, 59/09) and Framework Law on Secondary Vocational Education (BiH Official Gazette no. 63/08).

highly complex requirements and need for large numbers of trained personnel of all specialties, and infrastructural accessibility, which is sometimes a great obstacle for implementation of the educational process, particularly in rural areas. Also, the traditional view that these children are merely patients demotivates the population from striving for change, and requires awareness-building in all segments of society (Rule 1 of the Standard Rules for PwDs).

Special protection of children, particularly those of minors or adults with disabilities, is also ensured through the entity laws on notaries²⁵, which list legal transactions requiring the following notarized instruments for their validity: those involving the regulation of property relations between marital or extramarital partners (this includes the protection of minors, who may enter into marriage with the agreement of their parents); management of assets of minors and persons without working capacity (to a considerable extent this may refer to persons with disabilities); and legal transactions covering rights to property (children and persons with disabilities may own or inherit real estate).

In 2012, Republika Srpska passed the Law on Student Standards, to ensure the creation of all supplementary conditions to stimulate the education of children and their social inclusion, in order to promote versatile personal development. The Law on Free Legal Aid (2008) was also passed, and provides for certain categories, including: beneficiaries of disability pensions; persons whose working capacity was revoked and institutionalized mentally ill persons; beneficiaries of social assistance; unemployed persons and persons without income; and children without parental care.

Comparative Analysis of Acts in Bosnia and Herzegovina and Relevant International and EU Acts and Conventions

As a successor state of Yugoslavia, Bosnia and Herzegovina carried over most of its ratified conventions and multilateral treaties through wartime ordinances in 1993. In this manner, continuity was assured for numerous international conventions and treaties. After the end of the war, new bilateral agreements were renewed or established, and international conventions were ratified. The European Convention on Human Rights and Fundamental Freedoms was incorporated into the Constitution of Bosnia and Herzegovina as early as 1995, as a constitutional norm with priority over other laws, to be ratified later as an international act. Fifteen other international acts have the power of constitutional norms, and numerous laws take appropriate clauses of these documents as a departure point (e.g. when defining the minimum rights to education, right to work, subsistence etc.).

In the domain of disability, Standard Rules for the Equalization of Opportunities for Persons with Disabilities is a fundamental document, adopted by the UN General Assembly in 1993 (and adopted by the Bosnia and Herzegovina Council of Ministers by decree in 2003). These Standard Rules gave rise to the Convention on the Rights of Persons with Disabilities, with its Optional Protocol (2006), adopted by Bosnia and Herzegovina on 12 March 2010 (hereinafter: the Convention). In its Preamble, the Convention enumerates the internationally pertinent human rights documents that preceded it, as universal UN documents. It is important

25 Law on Notaries (FBiH Official Gazette no. 45/02) and Law on Notaries (RS Official Gazette no. 86/04, 74/05, 76/05, 91/06, 37/07, 50/10, 78/11).

to mention that this event was preceded by the development and adoption of the Policy in the Area of Disability²⁶, which the Council of Ministers adopted as the final document of the 2005-2009 'Policy in the Area of Disability Project'²⁷. Pursuant to its obligations arising from the Convention, Bosnia and Herzegovina submitted a Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities, as its first official state document on the situation in the domain of disability. As the rules of monitoring are included (Monitoring of the Convention on the Rights of Persons with Disabilities – Guidance for Human Rights Monitoring), the report covers the situation in Articles 8-33 of the Convention, which address certain obligations of signatory states regarding proclaimed rights. It goes on to outline both positive and negative findings, and lists the processes underway to fulfill the obligations of the Convention. It is worth mentioning that the Convention reaffirms the right of protection of persons with disabilities from discrimination, and in Articles 6 and 7 it specifically protects women and children with disabilities. In Articles 8-33, the Convention monitors areas from the Standard Rules of Persons with Disabilities, within which it elaborates special rights.

The Convention on the Rights of the Child explicitly prohibits discrimination of children on any basis, and mentions disability as a possible reason for discrimination. Article 23 of the Convention on the Rights of the Child deals in particular with the status and rights of children with physical or intellectual disabilities, and recognizes their right to special care.

The 2010 Draft Social Inclusion Strategy includes a chapter on persons with disabilities²⁸, but the Bosnia and Herzegovina Council of Ministers' Communications Strategy²⁹ does not specifically mention any activities regarding accessibility of communications for persons with disabilities (except that persons with disabilities, i.e. their organizations, are listed among the target groups of civil society organizations, or more precisely non-governmental organizations). The Council of Ministers adopted the Decision on Establishment of the Council for Persons with Disabilities in October 2010. The entity governments adopted their own strategies: Republika Srpska adopted the 2010-2015 Strategy on the Improvement of the Social Position of Persons with Disabilities, while the Federation of Bosnia and Herzegovina adopted the 2011-2015 Strategy for the Equalization of Opportunities for Persons with Disabilities in the Federation of Bosnia and Herzegovina.

The World Health Organization (WHO) based its activities on the UN Standard Rules for the Equalization of Opportunities for Persons with Disabilities, and on the Resolution of the World Health Organization Assembly entitled «Disability, Including Prevention, Management and Rehabilitation». *The International Classification of Functioning, Disability and Health (ICF)*³⁰ introduced new definitions which differentiate between the terms 'disability', 'impairment', 'functional limitation' and 'handicap'. Disability was defined as the result or outcome of a complex link between the state of health and personal factors of an individual, and external factors representing the obstacles in that individual's living environment. Limitation and impairment were defined as problems in bodily function or structure to such an extent that this function or

26 Bosnia and Herzegovina Council of Ministers – Policy in the Area of Disability in Bosnia and Herzegovina (Politika invalidnosti u BiH) (BiH Official Gazette no. 76/08).

27 The impact of this project and the partners charged with its implementation was mentioned in the Initial Report of Bosnia and Herzegovina on the Implementation of the UN Convention on the Rights of Persons with Disabilities, adopted in early 2013 – www.mhrr.gov.ba.

28 www.dei.gov.ba – Draft Social Inclusion Strategy.

29 www.vijeceministara.gov.ba – Council of Ministers' Communications Strategy.

30 www.who.org – International Classification of Functioning, Disability and Health (ICF).

structure is significantly altered or lost. A handicap represents a health disorder or an external disorder that prevents an individual from performing a function, or his/her role in society. A handicap in its broadest sense may also be the effect of prejudices in society regarding persons with disabilities, or a negative perception of self as a person limited in a particular function. Because of the formulation and scope of this definition, the terms ‘handicapped persons’ or ‘persons with a handicap’ appear in many laws. Our legislation uses the term ‘persons with invalidity or disabilities’ for adults. For children, the term ‘children with developmental difficulties’ is used.

EU Documents

Important European documents include: the European Social Charter and the revised European Social Charter (Article 15 mandates measures member states should take to affirm the rights of persons with disabilities to independence, social integration and participation in the community, regardless of the character and origin of their disabilities); the European Code of Social Security with its Protocol on changes and the revised European Code of Social Security; and the International Covenant on Economic, Social and Cultural Rights. Bosnia and Herzegovina submitted its Report III on the Implementation of the European Social Charter (Revised) for the period of December 1, 2008-December 31, 2011 for the health care, social security and social protection sectors.

EU aquis contains multiple directives, recommendations and decisions relevant to the development of measures in the domain of disability. It was incorporated into all documents related to the continuous advancement of activities in the reduction of social exclusion, in particular the Council of Europe’s 2004 New Strategy for Social Cohesion (the issue of inclusion in the EU emerged in the documents as early as the 1990s).

The Council of Europe’s 2006-2015 Action Plan, adopted by the Bosnia and Herzegovina Council of Ministers in 2009, defines guidelines for action in 15 sectors related to the areas of life of persons with disabilities. These are: participation in political life; participation in cultural life; information and communication; education; employment; professional orientation; habilitation and training; environmental development; transportation; life in the community; health care; rehabilitation; social protection; legal protection; and protection from violence and abuse. This act emphasizes target groups exposed to the risk of double discrimination (an indicator of social exclusion) as follows: women and girls with disabilities; persons with disabilities requiring extensive support; children and young persons with disabilities; elderly persons with disabilities; and persons with disabilities from minority and migrant communities. The Action Plan includes core measures and activities in the sectors of housing, education, employment, mobility and awareness-raising. The ICF disability qualification is recognized, but no definition of disability is provided. Instead, this is left to the member states, as well as prevention measures in accordance with the documents of the World Health Organization. The ‘universal design’ approach (introduced in 2001) is encouraged as the standard for all sectors, with the goal to equalize and permit equal access in the shaping of buildings, environments, products, communications and electronic systems promoting the participation and independence of persons with disabilities. A fundamental guiding principle for provision of services is equal treatment to that of persons without disabilities (sectoral responsibility), but disability-specific policies are not ruled out if such policies benefit persons with disabilities. The Recommendations and Directives

of the EU Council of Ministers and other EU documents constitute an Annex to the Action Plan. The 2010-2020 Council of Europe's Strategy for Persons with Disabilities envisages action in eight areas: accessibility (measures and actions to improve access to support services); participation (measures and actions to strengthen active participation in public life); equality (combating discrimination and affirming equal opportunities); employment (particularly activities for employment in the open market); education and training (strengthening of inclusive education and lifelong learning for all students); social protection (improvement of housing conditions, combating poverty and social exclusion); health (improving access to health care services and benefits); and external activities (advancement of the rights of persons with disabilities and expansion and development of European and international programs).

While Bosnia and Herzegovina is not formally required to implement harmonization with European law, which is mandatory for the EU member states, international documents require reporting on issues contained in the given Convention, and the ratification of a Convention requires implementation of its provisions. Observing this practice of the recognition of supremacy of international law, pertinent strategies for the domain of disability³¹ were prepared, and modern tendencies of innovative regulations – based on scientific achievements, adoption of new international legal standards or analysis of the effectiveness of legal norms – have been incorporated in many laws.

When we discuss the implementation of this model with regard to persons with disabilities, the question of the selection of a model is no longer posed, since in the above documents Bosnia and Herzegovina has adopted the social one. Although there are advocates for abandoning the medical model, this view neglects to take into account that the ICF International Classification of Disability is actually based on *integration* of the medical and social models, which is why the bio-psycho-social approach was applied. Application of the social model means that the state and environment should remove the barriers that prevent or hinder persons with disabilities from participating in mainstream society. This does not imply that all persons with disabilities (or even with the same disabilities) shall have the same treatment in achieving equal access, because it is exactly this crucial principle of individual approach – by developing a profile of status, needs, development and inclusion – which determines actions separately for each person (e.g. one person may be institutionalized, while another, if he/she has supportive family and/or conditions, may remain in the community with additional services). Furthermore, this does not mean that efforts should not be made in all aspects of removal of social barriers, regardless of the specific needs related to a given type of disability. This is in effect what 'universal design' means. Universal design permits equal access for all categories, from children, adults and the elderly to persons with disabilities. Disability is a changeable category, in the sense that new cases or types may emerge, and universal design encompasses all these new possibilities.

As the sectors of health care, education, social security, social protection, labor and employment and housing are governed by the entities, entity legislation is pertinent for the analysis of conformity with international documents. The greatest obstacle is the lack of political will to abandon the divisive policies embedded in the prioritization of the ethnic principle, which would affirm the participation of all external to this approach. This is best illustrated by the failure to implement verdicts from the Human Rights Court in Strasbourg, as well as the verdicts of domestic courts, in particular those of the Constitutional Court of Bosnia and Herzegovina. Apart from political barriers, reflected in either 'failure to adopt' or in 'delaying' of reform laws, and in extremely

31 2010 – 2015 Strategy for the Equalization of Opportunities for Persons with Disabilities in Republika Srpska, 2011 – 2015 Strategy for the Equalization of Opportunities in the Federation of Bosnia and Herzegovina.

inefficient management of public resources, our society is characterized by very low incomes. Additionally, these incomes remain unevenly distributed, while the need for various forms of support is vast. Cantonal administrations represent a great burden. A draft of the new Federation of Bosnia and Herzegovina constitution is expected soon, but the problem of public administration is present in both entities and on all levels. Finally, as a consequence of successive policies over many years, a great mass of 'passive consumers' of certain benefits was created in both entities. This resulted in many cases of beneficiaries tapping into multiple systems, without adequate measures and programs to stimulate employment, retraining and self-employment, so that in place of a system of equality, a system of inequality emerged. Entire categories are fully excluded from access to certain rights. In the country as a whole, there are many unemployed persons, some of whom have been job seeking for years, with no idea what the future will bring, and without the vision and will to change the situation. For this reason, unemployment of the 'healthy population', along with the above-mentioned social deviations, constitutes a special problem which must be resolved and which demands both time and resources. The problem of unemployment is particularly pronounced for the category of young people. This problem also worries the leaders of EU countries, as evidenced by the recent decision to allocate considerable funding from the European Social Fund for combating youth unemployment over the next two years.

An analysis of the situation in the system of budgeted social protection benefits in the IBHI Study revealed some common areas of concern in the entities, including:

- laws and regulations are not of crucial importance for the achievement of equal rights in social protection, but only a precondition, and the implementation of legal provisions on equal access to rights has lagged;
- resolving the issue of unemployment and employment of social categories is imperative to prevent further burden on the social sector;
- embarking on the equalization of the rights by categories and beneficiaries is imperative to establish a functional and fair system, but also to maintain liquidity of the budgets;
- it is crucial to conduct continuous education of all relevant officials and personnel, as well as to run awareness-raising campaigns about the importance of the problems of excluded categories, particularly that of persons with disabilities.

Private Sector and Market Potential for Employment and Self-Employment in Bosnia and Herzegovina, with Special Emphasis on the Situation and Options of its Entities

Unemployment, Employment and Rehabilitation

One reason employment is seen as a crucial sector is that exclusion from work and income generation pushes any person towards exclusion, in particular persons with disabilities. This sector has three sub-sectors, with most regulations being governed on an entity level (and a cantonal level in the Federation of Bosnia and Herzegovina). In terms of work, a person may be unemployed, an employer, or a recipient of a disability pension in accordance with the entity laws on pension and disability insurance. Here we consider only the first two of these components – unemployment and employment – as pension and disability insurance was presented in the previous chapter.

In the sense of the entity laws on employment brokerages and social security³², an unemployed person is any such person without current employment who is: able to work; eligible for employment in line with labor regulations; actively seeking employment; recorded with the employment agency as a job seeker; does not perform an independent professional or economic activity; and is not a regular school or university student, or a pensioner. Labor regulations set 15 as the lowest legal age for employment. In this case, the jobs in question are mainly those not requiring particular knowledge or skills, but they allow for work to begin prior to an individual attaining full working capacity (at 18 years of age). Persons who meet these conditions, and who paid unemployment contributions over an uninterrupted period of 12 months, or for 8 months within the last 18 preceding unemployment, are eligible for unemployment benefits. An additional condition is that such persons lost their jobs through no fault of their own, and did not resign voluntarily. Resignation due to discrimination, abuse, working conditions considered hazardous to the health, or various pressures from employers is not viewed as voluntary. Depending on the duration of work history, the unemployment benefit is paid for 6-12 months, as a percentage of the average wage in the canton. Moreover, persons who fall three years short of meeting the employment duration requirement for the old age pension are eligible for payments of the pension and disability insurance in order to fulfill this requirement. All registered unemployed persons are provided with health insurance on the condition of regular reporting for the purposes of record-keeping.

Employment of persons with disabilities takes two forms: on the open market (under equal conditions), and employment under special conditions. The aim of the latter is to equalize opportunities of employment for persons with disabilities, through special programs, subsidized forms of employment or priority in obtaining regular employment. Employment occurs through the completion of a contract with an employer, or by self-employment, i.e. performance of a professional or economic activity in line with regulations on practicing crafts and related activities.

Employment is provided in accordance with entity labor regulations. The requirements are that the person is at least 15 years of age, and of generally sound health. The latter is verified by a competent health care institution. Persons with disabilities are considered to be of generally sound health for performing certain jobs if they have been trained for them. The law includes provisions for particular protection of persons aged 15-18, who are considered minors, and are not permitted to sign contracts that imperil their health, morality or development. In addition to labor contracts, these laws also provide for traineeships in jobs where specific work experience is required. Volunteer traineeships are regulated by separate laws on volunteer work.

The Law on Employment in the Institutions of Bosnia and Herzegovina³³ regulates the labor relations of employees in such institutions, and consequently for employees of associations and foundations registered at the state level of Bosnia and Herzegovina. This law applies to all federations of associations and to associations of persons with disabilities registered at this level. The features of this Law are that all norms related to the labor contract have been more precisely established, guaranteeing greater protection of employees than in either the private or public sector.

32 Law on Employment Brokerage and Social Security of Unemployed Persons (FBiH Official Gazette no. 55/00, 41/01, 22/05, 9/08), Law on Employment Brokerage and Rights during Unemployment (RS Official Gazette no. 30/10, 102/11).

33 Law on Employment in the Institutions of Bosnia and Herzegovina (BiH Official Gazette no. 26/04, 7/05, 45/05, 60/10).

The laws on volunteer work³⁴ extend the opportunity (particularly for young unemployed persons) to undertake traineeships or gain work experience, while granting employers certain privileges in order to stimulate such employment. Recognized privileges for employers related to accepting volunteer work refer to the treatment of certain costs as business costs, as follows: Procurement of work clothes, equipment and protection articles required for volunteer work; travel, lodging and board costs arising in connection with volunteer work; compensation paid to cover the costs of board, care and training of animals owned by volunteers who participate in volunteer activities; compensation paid to cover medical services and vaccines received for the purposes of performing volunteer work; costs of training necessary for volunteer work that takes place outside the school system; compensation for insurance premiums for volunteer workers; and compensation for collected documentation or payment of administrative fees.

The Federation law establishes a daily allowance for volunteer workers, up to the amount of 75% of the daily allowance for civil servants, while the new draft proposal of this law in Republika Srpska envisages compensation up to 30% of its average net wage. These privileges are conditional upon the signing of contracts for volunteer work, which would, like labor contracts, specify the rights and obligations of employers.

The importance of these laws is considerable, partly because they equate volunteer work history with other work history for the exercise of overall labor rights, but particularly because they may enable, in the future, persons with disabilities to compete for paid jobs in markets which require specific work experience.

Regulations Supporting the Environment for Employment of Persons with Disabilities

The laws on persons with disabilities³⁵ are the most important laws for equalization of opportunities for employment of such persons. These laws impose an obligation on certain legal persons to employ persons with disabilities in proportion to the total number of employees. Unless these numbers are met at the so-called 'mandatory employment level', employers are required to set aside a certain amount from employee wages in a fund that will distribute collected proceeds for the employment, professional training and rehabilitation of persons with disabilities, on the basis of transparent public tenders. Legal persons who are not mandated to employ persons with disabilities pursuant to this Law (e.g. organizations in the non-governmental sector) also set aside some funds, though for them this percentage is lower than for the organizations mandated for employment of this nature (including government bodies, legal persons holding public powers or performing tasks of public interest, and companies).

The status of enterprises for the employment of persons with disabilities is defined separately, with privileges and benefits provided by the government outlined in respective laws. In the Federation of Bosnia and Herzegovina, an enterprise for the employment of persons with disabilities should employ at least 40% its total number of employees as such persons, while in Republika Srpska this figure is 51%. All categories of legal persons may establish such enterprises, including government

34 Law on Volunteer Work (FBiH Official Gazette no. 110/12) and Law on Volunteer Work (RS Official Gazette no. 73/08).

35 Law on Professional Rehabilitation, Training and Employment of Invalids (RS Official Gazette no. 37/12 – consolidated text) and Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (FBiH Official Gazette no. 9/10).

institutions. Sheltered workshops can be created for the purpose of providing employment, and may be founded by: units of local self-government; companies; associations of persons with disabilities; associations of employees, trade unions, and humanitarian organizations; and other legal persons. An occupational center is a public institution providing work for persons who cannot find employment through any other option offered by this law, or established for occupational-therapy activities within the context of rehabilitation of persons with disabilities. An occupational center must employ at least 80% of its total number of employees as persons with disabilities, and such centers may be established by all legal persons. Self-employment is also considered as employment of persons with disabilities, as are employment in a family enterprise, and independent business activities. In their business operations, such entities are exempt from the payment of duties and taxes pursuant to customs and tax regulations, while their utilities (including telephone and electricity bills) are charged at household rates. Some of the money paid out in wages is recoupable from the Fund through refunds. Additionally, the law imposes a mandatory requirement on other entities that they must meet 20% of their goods and services needs from enterprises for the employment of persons with disabilities, in an effort to stimulate their sustainability in this manner. A special advantage of these laws is that they create opportunities for the additional training and retraining of persons with disabilities. This is because all forms of support envisaged for economic activities may serve as organizational structures for education, additional training, retraining and rehabilitation programs for persons with disabilities. Special sections of the law are dedicated to the issues of rehabilitation and retraining of persons with disabilities. This is an area which is bound to continue its expansion, as social rehabilitation encompasses the systems of health care, education, culture, sports, recreation, social and political activities, communications, and labor and employment, among others.

On a state level in Bosnia and Herzegovina, the General Law on Cooperatives (BiH Official Gazette no. 18/03, 55/06) allows for stimulation of employment of persons with disabilities as a form of social entrepreneurship. Pursuant to this law, a cooperative is an organization of voluntarily associated members (cooperative members), with a minimum of five physical or legal persons, who satisfy their economic, social and cultural needs through joint ownership and democratically controlled business operations. A cooperative may be general or specialized in terms of its activities, and it may only perform the activities for which it is registered. In legal transactions, a cooperative acts on its own behalf and is liable for its assets, or through solitary liability of individual cooperative members.

The entity laws on games of chance³⁶ are one form of government stimulation. These laws envisage that 50% of revenues will be set aside for purposes which will improve the position of children, sick children and other vulnerable groups, with specific mention of persons with disabilities. Funds are allocated on the basis of activity programs and projects.

The private sector has relevance for persons with disabilities, if an injury in the workplace or a professional disease is the origin of their disability, and also through prospects for their employment in certain jobs. For a proper interpretation of the 'equalization of opportunities' approach, the starting point is that, realistically, not all persons with disabilities may have access to all types of jobs. Rather the intent here is to permit access to appropriate jobs in proportion to a PwD's capacity. From this perspective, it becomes feasible that it may be in the interests of some companies to employ persons with disabilities, in order to receive tax relief and certain other benefits.

36 Law on Games of Chance (RS Official Gazette no. 111/12 – consolidated text) and Law on Games of Chance (FBiH Official Gazette no. 1/02, 40/10).

The Law on Value-Added Tax (BiH Official Gazette 9/05, 35/05) exempts from its payment goods and services provided by humanitarian, charity, disability and similar organizations for their fee-paying members, on condition that these do not disrupt competition in the market. This is beneficial for organizations for persons with disabilities, as it means their services may be more affordable than equivalent services provided by other companies. Income tax laws do not tax income from disability benefits and other forms of social protection assistance, nor the income of disabled persons employed in a company, institution or workshop for occupational, professional training and rehabilitation of invalids. All employed persons are eligible for a further 0.3% on the set percentage of income tax deductions for children, as well as for the costs of treatment and medications.

The laws on profit taxes³⁷ provide tax relief, since they recognize 2% of sponsorships and 3% of grants realized during the tax year as business expenses. The Federation law exempts a company from the profit tax if more than 50% employees were persons with disabilities in the course of the tax year. In Republika Srpska, organizations employing up to 9 employees and with annual revenues below 100,000 KM may receive the status of small taxpayer, and pay tax at the reduced rate of 2%.

The most interesting form of profitable organization in the private sector is that of the limited liability company (LLC), as it encompasses both small and medium-sized enterprises. Management of LLCs is more streamlined than in the case of some other forms (e.g. shareholder-based companies), and thereby allows faster and easier adaptation to market conditions, making these companies more effective. Entity laws provide a legal framework for the activities of small and medium enterprises³⁸, but the pace of company creation has remained sluggish. Bosnia and Herzegovina is not seen as a suitable environment for capital investments due to its poorly regulated, slow and complicated procedures for company registration.

Self-employment is envisaged through the forms of independent business activities defined in the Law on Crafts and Related Activities in the Federation of Bosnia and Herzegovina (FBiH Official Gazette no. 35/09, 42/11). By legal definition, a craft is 'an independent and lasting performance of permitted and registered economic activities as the primary, supplementary or complementary occupation by physical persons, with the purpose of generating profits through manufacture, trade or provision of services in the market'. Any activity not prohibited by law or regulated by a special law is permissible. There are conditional and special crafts for which the conditions for performance vary (special training is required for conditional crafts, and special crafts require approval). Two or more persons may jointly perform a craft. Related activities are activities related to the craft, and activities that are not crafts, but are performed in accordance with the rules for crafts. Cottage industry activities, as well as jobs performed on business and residential premises, as well as seasonal jobs, are regulated by separate by-laws.

The Republika Srpska Law on Crafts and Entrepreneurial Activities (RS Official Gazette no. 117/11) is much shorter, and does not treat the self-employment segment to the same extent of detail as does the Federation law, although it establishes the same forms of independent business activities.

37 Law on Profit Tax (RS Official Gazette no. 91/06, 128/06, 120/08, 71/10, 1/11) and Law on Profit Tax (FBiH Official Gazette 97/07, 14/08, 39/09).

38 Law on Incentives to Small Economy Development (FBiH Official Gazette no. 19/06, 25/09) and Law on Incentives to Development of Small and Medium Enterprises (FBiH Official Gazette no. 23/09 – consolidated text).

Microcredit organizations may be important partners for the employment of persons with disabilities. They are oriented on private initiatives, provide microcredits in order to improve the position of recipients, increase employment, support entrepreneurship and earn profit. Both entity laws³⁹ define a microcredit organization as a legal person that may be set up as a microcredit company (LLC or shareholders' company) or a microcredit foundation. A microcredit company may approve loans to a maximum amount of 50,000 KM, while a microcredit foundation may approve loans of up to 10,000 KM.

Socially responsible companies and banks may also represent a stimulating environment, since, through their credit lines for small business and investment projects, or even for social entrepreneurship, as well as through annual grants, they can provide exceptional assistance to the process of equalization of opportunities for persons with disabilities in all relevant segments.

In Lieu of Conclusions and Recommendations

Although in recent years considerable efforts have been invested to address matters of relevance for the everyday functioning of persons with disabilities, there remains much to be done in this domain, for the following reasons:

1. Since the entities adopted the strategies for the equalization of opportunities for persons with disabilities, it is expected that any new plans and programs will follow the course set in these strategies.
2. Anticipated amendments to the Constitution of the Federation of Bosnia and Herzegovina will, in addition to its political consequences, have fiscal impacts which are likely to lead to legal changes in the allocation of public resources.
3. Legislative changes are also expected in the Federation of Bosnia and Herzegovina sector of pension and disability insurance, while Republika Srpska has, through some changes of its own, already embarked on this inevitable process of reform.
4. In the Federation of Bosnia and Herzegovina, a set of laws in the sector of social and labor protection is currently being prepared, while problems of the sustainability and liquidity of budgets are likely to uncover other unresolved matters in this sector in both entities.
5. Educational reform has neither been completed nor implemented. Although many believe that this is a problem which only concerns higher education, much also remains unresolved in elementary and secondary education (e.g. curricula, syllabi, common core programs, and issues of language), and in pre-school education. This is of particular concern regarding the licencing of pre-school institutions and ensuring a certain standard of quality.

There are several fundamental principles that should be observed in the implementation of the medical-social model in the domain of disability:

1. Changing laws does not guarantee enforcement of legal norms. For this reason it is necessary to implement awareness-raising campaigns, education and other measures to involve local communities in parallel with, and if possible before, such legal changes. The majority view in the community is that improvements or status changes occur with the adoption of

³⁹ Law on Microcredit Organizations (Official Gazette no. 64/06, 116/11), Law on Savings and Loans Organizations (RS Official Gazette no. 93/06) and Law on Microcredit Organizations (FBiH Official Gazette no. 59/06).

legal norms. Modern theories suggest that a legal norm should only be enacted once society has been prepared for its enforcement, i.e. when human and other resources have been provided, and the environment prepared, to support the changes. This is why developed countries apply the method of 'delayed enforcement' when adopting important and major reform laws. This means that the law is adopted, but that its implementation starts 1-3 years later. This delay serves to prepare all stakeholders in society for the impending changes to the regulation of social relations.

2. In the absence of major programs and plans, the 'universal design' principle should be implemented wherever possible, in future constructions, access paths, roads etc.
3. Persons with disabilities should be provided with training, education and resources for online communication, if it is within their abilities to perceive and utilize it. This should take place either as part of the education system or in training centers. Online training should be developed and introduced for all types of education in this category.
4. For programs to develop support in local communities, the following activities may be crucial: mapping of types of disability; mapping of needs regarding the functionality of persons with disabilities; identifying types of existing and lacking services, developing a plan for the provision of support services; mapping of jobs for which there is market demand; and mapping of possible jobs for persons with disabilities.
5. Development of prevention programs and educational programs for the early detection of disabilities, and ensuring that these programs are available to the general population.
6. Enlisting of the media to participate in programs and campaigns for all above-mentioned activities.
7. Equality before the law and a minimum of guaranteed rights should be achieved by reexamination of the harmonization of legal norms in light of international conventions and treaties, regardless of the level of government that passes the law, and by enforcement of such harmonized legal acts.

The above principles of action should represent a constant in our attitude towards problems related to disability, as this is an extremely variable category, not only due to number and type, but also because the categories that cause disability are themselves changeable. As individuals, or as members of different social groups, we have the chance to alter prevailing perceptions of and attitudes towards disability. The focus of this segment of the analysis was to present the complexity and significance of the problems of disability in a simple and succinct manner, and to inspire the reader to strive for change.

Sources:

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POLICIES IN THE AREA OF DISABILITY IN THE FEDERATION OF BOSNIA AND HERZEGOVINA (1996-2013)

A Society of Barriers and Prejudices

Persons with disabilities in the Federation of Bosnia and Herzegovina are primarily categorized by origin of disability, resulting in the following categories: military PwDs, civilian victims of war, persons with congenital or acquired disabilities originating as a consequence of an injury or disease, the so-called non-war disabled, and persons with work-related disabilities caused by workplace injuries or professional diseases. This status-based categorization has resulted in legislation with considerably fewer common areas and far more solutions that are, in essence, discriminatory, and account for the enormous differences in awarded benefits, as well as their scope. Society's care for the rights and situations of persons with disabilities depends to a considerable extent upon the organization – and strength of organization – of such persons, and upon their ability to impose themselves as a relevant and strong partner to the authorities in the Federation of Bosnia and Herzegovina at a given point in time.

The policies in the domain of disability implemented in the Federation of Bosnia and Herzegovina immediately after the end of war operations in the country as a whole, were based either on the models in place in neighboring countries, or on legislation carried over from the previous country. It was not unheard of for disability-related discrimination to occur, even among beneficiaries whose disabilities originated as a consequence of common circumstances, and where beneficiaries belonged to the same target group (i.e. the category of veterans). Namely, until the adoption of the Federation Law on the Rights of Veterans and Their Family Members (FBiH Official Gazette no. 33/04, 56/05 and 70/07), the category of military PwDs enjoyed rights granted by two completely separate laws.

Former members of the Army of the Republic of Bosnia and Herzegovina (RBiH) enjoyed disability-related rights contained in the law carried over from the former Socialist Federal Republic of Yugoslavia, while former members of the Croatian Defense Council (HVO) received theirs on the basis of the law adopted by the Herzeg-Bosnia Assembly. The rule books for the estimation of degrees of disability were different, not just for the different components of the military units to which beneficiaries belonged, but for the cantons. There was no single procedure for granting rights, nor were there criteria for the assessment of bodily impairment. This fragmentation was supported by the government, by sharing the budget funds for military veterans 75:25, between former members of the RBiH Army and HVO respectively. Therefore, discrimination was both institutionalized and legalized. Such a division within the same population of persons with disabilities (military PwDs) lasted for nearly 10 years, until the adoption of the Law on the

Rights of Veterans and Their Family Members in 2004. From the creation of the Federation of Bosnia and Herzegovina until the adoption of the Law on the Foundations of Social Protection, Protection of Civilian Victims of War and of Families with Children (Official Gazette no. 36/99) and their amendments in 2004, the interest groups of persons with disabilities received their benefits through the pension and insurance system, which applied only to such persons who were either employed or retired. The rest of the population with disabilities was covered by a system of social protection based on material status rather than disability. Disability-related rights were granted in the cantons, which caused some cantons (e.g. Sarajevo and Tuzla) to address disability-related issues in line with their own material capacities, from which inevitably ensued differentials in the level of specific benefits for persons with disabilities. Meanwhile, the rest of the Federation of Bosnia and Herzegovina simply never introduced any rights to cash benefits on the basis of disability. From the end of the war until 1999 (which saw the introduction of the new Law on the Foundations of Social Protection), benefits for this category of the population were symbolic, and wholly covered by the Federation budget. Certainly the wealthier cantons found some degree of protection for the category of disabled civilian victims of war, while most cantons, invoking their poor financial situations, failed to pass the appropriate laws, or to pay any kind of disability benefit for this category of beneficiaries.

Such large differences in the policies adopted by the ruling circles in the Federation of Bosnia and Herzegovina concerning groups of persons with disabilities unequal in status, were to a great extent conditioned by the degree of development and of influence of respective organizations of persons with disabilities. Immediately after the war, it was logical that the organizations of persons with disabilities that gathered military PwDs were the strongest and most influential. The conformist governments exploited their power to a considerable extent, both by pandering to these organizations through various privileges, and by instrumentalizing them in the interests of preserving the concept of their power. Such a relationship resulted in the sweeping discrimination of status-based groups of persons with disabilities, both by the scope and types of various benefits, and in the overall amount of financial support for the disabled given to them from the budget.

Therefore, a fundamental feature of the policy concept in the domain of disabilities – spanning the period immediately after the war in Bosnia and Herzegovina until the ratification of the United Nations' Convention on the Rights of Persons with Disabilities in 2009 – was the legalized and institutionalized discrimination of persons with disabilities, who were categorized on the basis of their social status, and not on the basis of needs or the right to equal opportunities. A comprehensive concern by society as a whole for the needs of persons with disabilities was completely lacking, and fund distribution was reduced to the granting of rights to cash benefits from the Federal budget, which naturally depended on the status of the given beneficiary and on the strength of the organization representing that beneficiary's interest. There was a very low awareness, society-wide, of the need for persons with disabilities to become more actively and completely involved in all societal activities. As well as this, an underdevelopment of the organizations of persons with disabilities and their inability to convince the ruling circles through the strength of their arguments, in combination with the overarching grave economic situation, constitute the basic causes of marginalization and exclusion of persons with disabilities, and of their negligible influence in society.

The consequences of such concepts in the domain of disability in the Federation of Bosnia and Herzegovina have been catastrophic, both for persons with disabilities and for society as a whole.

Different groups of persons with disabilities in the Federation of Bosnia and Herzegovina enjoy disability-related rights on the basis of several apparently similar, but in essence very different, laws:

- military PwDs on the basis of the Law on the Rights of Military Disabled and Their Family Members (FBiH Official Gazette, no. 33/04, 56/05 and 70/07);
- civilian victims of war in accordance with the provisions of the Law on the Foundations of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (FBiH Official Gazette, no. 36/99, 54/04, 39/06 and 14/09);
- persons with disabilities (non war-related disabled) in accordance with the provisions of the same Law (FBiH Official Gazette, no. 36/99, 54/04, 39/06 and 14/09);
- work-related disabled attain some of their rights on the basis of the Law on Pension and Disability Insurance (FBiH Official Gazette, no. 29/98, 49/00 and 32/01, 73/05, 59/06 and 4/09).

The Law on the Rights of Veterans and Their Family Members stipulated that the rights of military PwDs would be funded from the Federal budget. According to this law, a military PwD is defined as a person who suffered a physical impairment of at least 20%, from a wound, injury, disease or deterioration of disease while serving in the Armed Forces, performing military duties or other duties for the purpose of the defense of Bosnia and Herzegovina, from 12 March 1991-23 December 1995. Depending on the severity of the impairment, military PwDs are divided into 10 groups, with Group I at 100% to Group X at 20% of impairment. According to the provisions of the law, military PwDs are entitled to a personal disability benefit, a long-term care and support benefit and an orthopedic benefit. Approximately 56,000 military PwDs enjoy these rights in the Federation of Bosnia and Herzegovina, and the budget of the Federation of Bosnia and Herzegovina sets aside around 160,000,000 KM annually to fund them. Individual amounts vary from 38 KM of the disability benefit for a military PwD in Group X, to 1,800 KM for a military PwD with 100% disability in Group I.

Curiously, not a single title of the benefits enjoyed by military PwDs reveals that they refer to veterans. Identical benefits, by title, are also granted to civilian victims of war and persons with non war-related disabilities. The crucial difference is in the coverage of beneficiaries and the levels of personal benefits. It is worth noting that all these different groups of persons with disabilities receive considerably different cash benefits from the Federal budget, on the basis of the disability concerned. The government, as lawgiver, has not rewarded the veterans' sacrifice in the defense of the country with any special rights (in Republika Srpska there is a veteran's allowance), but exclusively through rights based on disability. Persons with disabilities who suffered injuries in the war as civilians, as well as persons with congenital disorders or disabilities acquired in peacetime, enjoy entirely the same rights as military PwDs in the Federation of Bosnia and Herzegovina. Civilian victims of war are divided into five groups, encompassing 60 to 100% physical impairment. The base for calculation of benefits for civilian victims of war is 70% of the base of a military PwD with 100% physical impairment, which is around 560 KM, while the base for calculation of the coefficient for persons with non war-related disabilities is fixed at 274 KM. Every year, the budget of the Federation of Bosnia and Herzegovina allocates around 12 million KM for subsidizing personal civilian victims of war benefits for some 5,000 beneficiaries, and approximately 112 million KM for around 41,000 beneficiaries of benefits extended on the basis of non war-related disabilities. When the rights and benefits enjoyed by persons with work-related disabilities through the system of pension and disability insurance

are included, the Federation of Bosnia and Herzegovina sets aside nearly 300 million KM annually for disability-related benefits. Enormous funds (one-fifth of the annual budget of the Federation of Bosnia and Herzegovina) are expended, while an army of disaffected persons with disabilities is created.

Evidently, there is real confusion in terms of the level of benefits and the coverage of beneficiaries. This reinforces existing forms of discrimination, as well as generating new ones, against persons with disabilities, based on the origin of their disabilities. The category of military persons with disabilities enjoys positive discrimination relative to the rest of the population of PwDs, not only through the legal framework, but also through the Rule Book on Physical Impairments, which is applied by expert physicians of the Medical Expert Assessment Institute. Namely, the criteria for assessment of physical impairments applied for military persons with disabilities are up to 20% less severe, so the loss of a leg below the knee is evaluated as 70% disability if the person is a military PwD, or 50% if the person in question has a non war-related disability, which seems to be the ultimate in absurdity. All such anomalies are consequences of a caricatured, medicine-based and status-based model of the assessment of physical impairment, which exists only in this country and in the Republic of Croatia, where its effects are even more absurd.

Due to the lack of a precise definition of disability, beneficiaries whose treatment was ongoing were also in various ways included in the category of persons with disabilities, as were the elderly, whose functioning in the community becomes more difficult because of the natural process of aging, rather than disability. The approach of addressing the consequences of aging or treatment of patients through disability benefits is entirely misguided. Social protection in a broad sense, as well as a pension system and disability insurance, and better-quality and more accessible health care, are all mechanisms of society which should do more for the elderly and the sick. However, this does not happen; instead, such people have for years been systemically shifted to the domain of disability, thereby directly hindering those who are, because of their physical, sensory, mental or psychological impairments, permanently prevented from functioning and interacting with their environments. In accordance with the Convention, disability is a final condition, a consequence of an injury or a disease which permanently obstructs an individual's interaction with his/her environment and whose mitigation is beyond the measures of health care. In other words, while a treatment is ongoing, a person is only temporarily obstructed in his/her interaction with the environment, and the final scope of obstruction to functioning is determined expertly upon completion of the medical treatment, in line with the International Classification of Functioning of the World Health Organization. In one period (2007-2009), such occurrences led to an escalation of the number of beneficiaries pursuant to the Law on the Foundations of Social Protection, or so-called persons with non war-related disabilities, whose number rose to 150,000 and threatened to collapse the entire system. The Federation of Bosnia and Herzegovina was forced to adopt drastic amendments to this law, so that since 2009 the rights pursuant to it have been granted only to persons with 90% and 100% physical impairment. In addition, persons over the age of 65 enjoy the right to long-term care and support pursuant to cantonal regulations.

Nevertheless, all these solutions have been forced in order to save what little of the system could be preserved, and they in no way constitute a lasting solution for persons with disabilities.

Society of Equal Opportunities

The Parliamentary Assembly of Bosnia and Herzegovina ratified the United Nations Convention on the Rights of Persons with Disabilities in December 2009, thereby assuming great responsibility for the enforcement of its fundamental principles. As those responsible in the government, as well as in the non-governmental sector, were acquainted with the fundamental principles of this act rather a long time ago, significant preliminary work had been completed prior to official ratification. Our eminent experts, Mr. Plamenko Priganica, as the Authorized Representative of Bosnia and Herzegovina and Mr. Fikret Zuko, representative of the movement of persons with disabilities in Bosnia and Herzegovina, participated in the development of the Convention document in New York, as well as in the intense lobbying effort for its adoption by the United Nations in 2005. Considerably prior to the ratification itself, a significant awareness-raising campaign was conducted in Bosnia and Herzegovina, to address the need for a complete turnaround in the policies on disabilities, and for their future development based on the principles of the Convention on the Rights of Persons with Disabilities. The Principles of the Standard Rules, as well as of the adopted UN Convention on the Rights of Persons with Disabilities, had not been incorporated into any strategic document in Bosnia and Herzegovina prior to 2008, but the time for this development was definitively coming. In 2005, a miracle of sorts occurred in the context of the contemporary political situation in Bosnia and Herzegovina.

Namely, two line ministries, the Federation of Bosnia and Herzegovina's Ministry of Labor and Social Policy, Republika Srpska's Ministry of Health and Social Protection and Initiative for Better and Humane Inclusion (IBHI), as the implementing agency, jointly applied to the Government of the Republic of Finland for funding for the Policy in the Area of Disability (PAD) project, with the goal to produce a single document for all Bosnia and Herzegovina. This document was adopted in 2008 with the title 'Policy in the Area of Disability in Bosnia and Herzegovina' (PAD). Upon approval of the project, a team was assembled comprising experts from both the Federation and Republika Srpska governments, and with the participation of numerous representatives of the non-governmental sector dealing with disabilities, which was of utmost importance. The contribution of persons with disabilities to the development of the Policy in the Area of Disability in Bosnia and Herzegovina was immeasurable, from the standpoint of the expertise they incorporated into the document's principles, and that of the ownership of the document and its legitimization of the Policy as the most significant strategic course of action in the area of disability in Bosnia and Herzegovina. The Policy in the Area of Disability in Bosnia and Herzegovina effectively changes the current situation and status of persons with disabilities, and also of society as a whole, and imposes entirely new standards.

The Bosnia and Herzegovina Council of Ministers adopted the document in 2008 as a single agenda in the area of disability for the entire country, requiring the entity governments and parliaments to adopt their own strategic implementation documents based on the key principles of the Policy. This document, which took into account and adopted all key principles of the UN Convention on the Rights of Persons with Disabilities, represents the dividing point of social policy in Bosnia and Herzegovina, definitively and irreversibly setting the course of action of society in Bosnia and Herzegovina in the area of rights of persons with disabilities. It illuminates the directions for the action of society as a whole on the elimination of barriers, and the creation of a society of equal opportunities in all aspects of private and public life. In the clearest and most determined manner, the policy promotes affirmation of human rights, freedom and

dignity for all persons with disabilities, and their full integration into society, with the removal of all causes and forms of discrimination on the basis of disability.

In order to eliminate discrimination on the basis of disability, which has been legalized and ubiquitous in Bosnia and Herzegovina, and to introduce a social model approach to disability-related matters, society in Bosnia and Herzegovina needs to develop a single institutional model for the assessment of degrees of disability and remaining capabilities. This should be applicable to all persons with disabilities, regardless of age and of the origin of disability, with a single set of criteria and a procedure based on the International Classification of Functioning of the World Health Organization. The goal of this new, social model approach to assessment of the degree of physical impairment must be to ensure access to rights in line with the actual needs of each PwD.

At present, rights are accessed on the basis of recognized status as a person with a disability. This status is established by application of the medical assessment criteria, and on the origin of the disability. The criteria currently applied constitute the source of most forms of disability-related discrimination in Bosnia and Herzegovina.

While the PAD project was still ongoing, the entity teams for development of the strategies for equalization of opportunities for persons with disabilities were formed. The teams included responsible representatives of the ministries and the non-governmental sector. The approach was multi-sectoral, and the Policy in the Area of Disability in Bosnia and Herzegovina was the common departure point. The 'Support to the Development of the Policy in the Area of Disability in Bosnia and Herzegovina' project was the most successful and effective social policy project not only in Bosnia and Herzegovina, but also far more broadly, for the simple reason that no other project yielded documents that so radically and irreversibly altered policy on persons with disabilities. The entity strategies were adopted during 2010 and they vary slightly. The reasons that these documents still include some differences were unsurprisingly due to politicizing, only this time, fortunately, these artificially created differences remained merely cosmetic. What mattered most was that both strategies clearly and precisely identified the fundamental aspects of social life where barriers needed to be eliminated to permit easier and fuller inclusion of persons with disabilities into all segments of social life. Goals, measures and activities were precisely defined, as were the responsible institutions and deadlines for completion of identified activities.

The 2011-2015 Strategy for Equalization of Opportunities for Persons with Disabilities in the Federation of Bosnia and Herzegovina identified twelve areas of social life as follows:

- social protection;
- accessible life in housing and the community;
- health care;
- education;
- sports and recreation;
- professional rehabilitation and employment;
- family;
- information, communication and awareness-raising;
- participation in public, cultural and political life;
- research and development;
- organizations of persons with disabilities; and
- international cooperation.

In the domain of social protection for persons with disabilities, the medical approach to assessment of the degrees of disability is dominant. Rights are granted on the basis of status, with the origin of disability as the decisive factor. Such an approach generates progressively more forms of discrimination against persons with disabilities within their own population, as well as in the rest of society. The basic measures for a turnaround in social policy towards persons with disabilities, defined precisely by the Strategy, impose the need to harmonize existing Federal and cantonal laws with the UN Convention on the Rights of Persons with Disabilities. They also require adoption of new laws in the entity and cantons, based on the principles of the Convention, as well as the systematic development of a support system for persons with disabilities. This should lead from legislation to adaptation of the model of assessment of the degree of functional disability, and to determination of the rights of persons with disabilities in line with their real needs, with emphasis on their remaining capabilities.

With regard to accessibility, in the Federation of Bosnia and Herzegovina, persons with disabilities are in an extremely disadvantaged position relative to other citizens, and barriers exist in all aspects of their lives. Inaccessible residential buildings prevent persons in wheelchairs from leading normal lives. Inaccessible facilities and environments threaten persons with disabilities with new injuries, and prevent them from fulfilling their primary life needs. This particularly affects persons who do not use personal assistance services, and who, due to their disabilities, are forced to stay in their residences without contact with their environment. Public transportation is one of the basic preconditions for achieving equal opportunities, and its upgrade needs to be planned in line with European standards, both to develop accessible traffic infrastructure, and to adapt means of public transport to the needs of persons with disabilities.

Persons with intellectual developmental disabilities, who are deprived of their business capacity and unable to select their place of residence, are typically placed – through their curators and centers for social work –, in residential institutions housing up to 500 people in small locations. Such treatment and accommodation of persons with intellectual disabilities is a relic of an obsolete policy that has become outdated in Europe, and that paid no respect to the right of choice and personality, but instead viewed persons with this type of disability mostly in terms of numbers. In the Federation of Bosnia and Herzegovina, it is necessary to embark immediately on the creation of a legal framework for the development and implementation of a social protection housing program, which would include independent living and supported living. It is also necessary to reorganize existing institutions for the accommodation of persons with intellectual disabilities, and to align these institutions with accommodation standards in advanced European Union countries. Certainly this will be a long and costly process, but it is a vital one, and such arguments should not delay its immediate start.

Health care in the Federation of Bosnia and Herzegovina is constitutionally a competence of the cantons, and its organization is very complex. Depending on the level of development of a given canton, primary, secondary and tertiary health care are not equally accessible for all citizens of the Federation, including persons with disabilities. Health care institutions, encompassing outpatients' primary health care, through to cantonal in-patient clinics and clinical centers, are very frequently not accessible for persons with disabilities, nor are they adapted to their specific needs. Health care should be the right of all persons with severe forms of disability, especially where their disabilities make them very difficult to employ. Medical staff working with persons with disabilities must receive appropriate training, which should take place on a continuous basis, and should be based on the most recent available knowledge. Society is required to develop

services for the early intervention and treatment of children with special needs. Our health care system lacks an effective system of prenatal detection of the disorders that lead to disability. Through professional rehabilitation and training processes, the entire health care system should be oriented towards the exploitation of the remaining capabilities of persons with disabilities, and on their reintegration into the domain of labor and employment. Education is of the utmost importance for the development of capabilities of persons with disabilities for independent living in the community. Our current education system fails to provide persons with disabilities with the necessary access to educational processes. Our teaching staff is not sufficiently trained for work with disabled persons, and maladapted curricula and inadequate learning tools hinder them further. Blind and poor-sighted children, as well as children who cannot hear or speak, are especially isolated, because schools are not equipped to teach in the Braille alphabet or sign language. Even able-bodied children should be instructed at least in the basics of such skills, as early as from pre-school age. That would enable them to accept their developmentally impaired peers more easily, and this approach would ultimately lead to the development of a more humane society. The school system could and should be adapted to the special needs of children with different developmental impairments, and, in line with the needs of the labor market, these children should be prepared for independent life.

The Federation of Bosnia and Herzegovina has adopted the Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities, which requires companies to employ an appropriate number of persons with disabilities per a certain number of healthy employees. In the event such persons are not employed, these companies are required to pay into the Fund for Employment of Persons with Disabilities at a rate of 25% of their gross income for every non-employed person. This system has worked relatively well, and for the third year running the Fund has executed its basic function to refund these contributions to all employers who employ persons with disabilities under special conditions. Moreover, through public tenders, the Fund supports employment projects for persons with disabilities, as well as their incentivized employment in companies and organizations of PwDs. Employment of persons with disabilities in general terms will continue to require effort, but this is the only possible way to ensure more significant levels of employment. The processes of professional rehabilitation and training are particularly valuable, as are the requalification and acquisition of new qualifications and skills of persons with disabilities, to improve their competitiveness in the labor market.

For two years the Federal Ministry of Labor and Social Policy has implemented and financially supported the creation of local coalitions by different organizations of persons with disabilities, with the goal to develop and adopt local action plans for the implementation of goals from the 2011-2015 Strategy for Equal Opportunities for Persons with Disabilities. Coalitions were established and trained for this activity in all ten cantons. During 2012, this activity was conducted in the Una-Sana, Posavina, Livno, West-Herzegovina and Central Bosnia cantons. These teams created their own action plans, and an intensive lobbying effort has been underway this year to ensure that these documents become part of the regular agenda of cantonal governments and municipal authorities. Development of local action plans is underway in the remaining five cantons: Sarajevo, Bosnia Podrinje, Zenica-Doboj, Tuzla and Herzegovina-Neretva. In parallel, an awareness-raising campaign is being developed, with non-governmental sector partners, to ensure that the entire society is involved in the elimination of barriers in all segments of social life, so that together we make our environment as accessible to persons with disabilities as possible.

Although this goal is still very distant for us as a society, in line with the commitments arising from the ratification of the UN Convention on the Rights of Persons with Disabilities, we are required, each in our own area of competence, to initiate the adaptation of legal provisions to the Convention's principles immediately. We have adopted the strategic documents, and local action plans are in the final stages of preparation. Our next task is to insist on specific real-life effects.

Sources:

- Law on the Rights of Military Disabled and Their Family Members (FBiH Official Gazette, no. 33/04, 56/05 and 70/07);
- United Nations' Convention on the Rights of Persons with Disabilities, New York, 2006.
- Policy in the Area of Disability in Bosnia and Herzegovina, BiH 2008;
- The 2011-2015 Strategy for Equalization of Opportunities for Persons with Disabilities in the Federation of Bosnia and Herzegovina, BiH 2011;
- Law on Pension and Disability Insurance (FBiH Official Gazette, no. 29/98, 49/00 and 32/01, 73/05, 59/06 and 4/09);
- Law on the Foundations of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (FBiH Official Gazette, no. 36/99);
- Law on the Foundations of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (FBiH Official Gazette, no. 36/99, 54/04, 39/06 and 14/09);
- Law on the Rights of Military Disabled and Their Family Members (FBiH Official Gazette, no. 33/04, 56/05 and 70/07).

ASSESSMENT OF THE STATUS OF THE SUPPORT SYSTEM FOR PERSONS WITH DISABILITIES IN REPUBLIKA SRPSKA

Introduction

Persons with disabilities constitute one of the most vulnerable population categories in society, at constant risk of social exclusion. This risk arises from the very character of the functionality and health conditions of persons with disabilities. Physical, sensory or mental incapacity bring such persons to a state of increased need for social support in meeting their own basic life functions, more frequently than is the case with the rest of the population. According to estimates by international organizations, persons with disabilities constitute one-tenth of the population of every society, which represents a considerable number of citizens in need of social support. Through its support system, the government has the task of providing special social protection and support to this group of citizens. The progress of civilization in any society is measured by the degree of social support for persons with disabilities. The greater this support is, the higher the developmental standards of the society as a whole, and *vice versa*. Administrative barriers, physical and communicational barriers, systemic inertia in resolving everyday life problems, and a lack of institutional sensitivity constitute, among other factors, the basic elements of the mechanisms of systemic neglect and social exclusion of persons with disabilities.

The United Nations Convention on the Rights of Persons with Disabilities affirms the obligation of every signatory state to provide effective systems of social support to meet the needs of these persons for effective health care, habilitation and rehabilitation, employment, education, social protection, participation in political and cultural life, and access to information and fundamental needs. In order to ensure that the set tasks are fulfilled, while acknowledging the proclaimed principles of non-discrimination on the basis of disability, the Convention affirms the need for every state to develop socially sensitive systems of support, such as systems of health and social care, education, and employment. Pursuant to the Convention, states are required to use the system's existing resources, as well as to develop new ones, in order to ensure the full attainment of its goals, and thereby of the rights of persons with disabilities.

Bosnia and Herzegovina is a signatory of the United Nations Convention on the Rights of Persons with Disabilities, as well as of other international acts guaranteeing equal access to and exercise of basic human rights, such as the Universal Declaration of Human Rights (1948), the European Convention on Human Rights (1950), and the Revised European Social Charter (1966). As such, it is required to allocate resources for the implementation of effective systemic social support to citizens belonging to the category of persons with disabilities. In accordance with the relevant constitutional competences, the domain of social policy, with its accompanying

responsibilities for organization, planning and funding, has full authority over Republika Srpska, Brcko District and the Federation of Bosnia and Herzegovina, including all cantons in the latter. Consequently, responsibility for the functioning of social support systems for persons with disabilities lies at the appropriate levels of these organizational units. Republika Srpska independently organizes and implements measures of social support for all its citizens, including persons with disabilities. Through the measures implemented in the domains of social and health care, education, and employment, Republika Srpska seeks to fulfill the obligations arising from these acts, which would also encompass the specific needs of persons with disabilities.

The majority of needs that should be met to ensure the social inclusion of persons with disabilities concern the operation of systems of social and health care, education and employment. However, much more is necessary to ensure the full equality of persons with disabilities in society. Social support systems, when targeting persons with disabilities, must:

- recognize that disabilities are an integral part of the social reality;
- accept that the problem of disability belongs to the entire community, and not only to persons with disabilities and their families;
- recognize the real needs of persons with disabilities, while acknowledging their remaining abilities;
- make it possible for persons with disabilities and their family members to participate in the creation and implementation of the measures of systemic support intended for them.

If these principles of action are acknowledged, social support systems may advance the overall situation of persons with disabilities in society. The problems of disability and of provision of adequate systemic support for such persons have been priority themes of social development in Republika Srpska in recent years.

Systemic Definition of Persons with Disabilities in Republika Srpska

The domain of disabilities in Republika Srpska is defined in different fields of the social security system: pension and disability insurance, health insurance and health care, social protection, protection of disabled war and military veterans, and civilian victims of war. The legislative framework for defining the domain of disability, status and rights of the disabled are provided in the following laws: the Law on the Rights of Veterans, Disabled War Veterans and Families of Deceased Soldiers of the Homeland Defense War of Republika Srpska (Republika Srpska Official Gazette no. 134/11); the Law on the Protection of Civilian Victims of War (Republika Srpska Official Gazette no. 24/10); the Law on Pension and Disability Insurance (Republika Srpska Official Gazette no. 37/12) and the Law on Professional Rehabilitation, Training and Employment of the Disabled (Republika Srpska Official Gazette no. 54/09). The current manner of determining disability in Republika Srpska accords priority to the place and cause of its occurrence. Consequently, social security systems recognize the following categories of persons with disabilities: disabled workers; disabled war and military veterans; civilian victims of war; and so-called 'civilian' or 'non-war' disabled persons. According to this categorization, social security systems are able to provide more accurate definitions of the term 'disability'. According to the Law on the Rights of Veterans, Disabled War Veterans and Families of Deceased Soldiers

of the Homeland Defense War of Republika Srpska, a disabled veteran is 'a soldier who suffered a wound, injury or harm in combat or armed action, during war or peacetime, in the defense of the Socialist Federal Republic of Yugoslavia or Republika Srpska, with consequent physical damage of at least 20%, or contracted an illness which caused physical damage of at least 40% under the same circumstances' (Article 2). The Law on the Protection of Civilian Victims of War defined disability as the state of a civilian who suffered 60% physical damage due to military action, incarceration in camps, unexploded ordnance etc. (Article 4). Pursuant to the Law on Pension and Disability Insurance, disability 'constitutes a condition which interrupts work, due to the occurrence of disability, leading to a considerably reduced work capacity, regardless of whether the disability occurred at work or was a preexisting condition which deteriorated during work.' (Article 3). The Law on Professional Rehabilitation, Training and Employment of the Disabled sought to further refine this definition. Pursuant to this Law, a person with disabilities is 'any person with a bodily, sensory or intellectual impairment or intellectual disability resulting in a permanently or temporarily (12 months or more) reduced ability to work and meet personal needs in everyday life.' (Article 2).

The Law on Social Protection includes a category of so-called 'civilian disabled persons', and defines beneficiaries of social protection benefits and services, among whom handicapped children and adult persons with disabilities are recognized as priority beneficiary groups. In accordance with this Law, an adult person with a disability is a person 'who, as a result of injury, illness or congenital disease exhibits a loss or reduction of the ability to conduct activities indispensable for everyday life, in a capacity considered normal for persons of the same age, gender, culture and education level' (Article 18). This Law provides a special definition for minors as 'handicapped children' afflicted with 'impairment of sight and hearing, with vocal, speech and language difficulties, with physical damage and chronic diseases, with intellectual disability, with multiple disorders, or with other disorders that cause problems in psychomotor and sensory development.' (Article 18)

The definitions of disability provided in these laws are predominantly based on the recognition of differences in sites and causes of disability. Depending on the cause and location of the occurrence of disability, the beneficiaries of these rights enjoy different statuses, i.e. different levels of social support. This approach is a source of inequality and discrimination between different groups of persons with disabilities when accessing systemic support. Contrary to such an approach, international acts in this field affirm the provision of social support through equal access for all persons with disabilities, regardless of the site and cause of occurrence (POI Project, 2008). This approach places at the forefront the assessment of the type and degree of disability, along with the functional status of the person with the disability. Social support measures are defined on the basis of this assessment, and aim to meet the real needs of persons with disabilities.

If we accept World Health Organization estimates that 10-11% of the inhabitants of any country may be considered persons with disabilities, as well as the preliminary results of the national census, we can assume that Republika Srpska contains around 130,000 citizens who belong to the category of persons with disabilities. The lack of a unified database in this field complicates assessment of the current status of persons with disabilities. Existing records cover the provision of benefits to these persons in individual systems, but there are no links to existing beneficiary databases between systems. Most persons with disabilities are included in the war and military veterans' protection system, while fewest can be found within the system of professional rehabilitation, training and employment.

Table: Number of beneficiaries from systemic laws

Law on the Rights of Veterans, Disabled War Veterans and Families of Deceased Soldiers of the Homeland Defense War of Republika Srpska	61,440*
Law on the Protection of Civilian Victims of War	3,447*
Law on Pension and Disability Insurance	42,287*
Law on Social Protection	17,026**
Law on Professional Rehabilitation, Training and Employment of Disabled Persons	1,441***

*- total beneficiaries of the basic rights of this Law; **- total beneficiaries of the long-term care and support benefit; ***- number of disabled persons employed pursuant to the Law on Professional Rehabilitation, Training and Employment of Disabled Persons.

In order to enhance the domain of social support to persons with disabilities, and harmonize the systemic approach to this field with international standards, the Government of Republika Srpska adopted the '2010-2015 Strategy for Improvement of the Social Position of Persons with Disabilities in Republika Srpska' (RS Government, 2010). For the first time, the strategic orientation of the official institutions of Republika Srpska was required to adopt and incorporate new approaches to disability into existing systems of social support. This document was prepared on the principles of securing equal opportunities for persons with disabilities, regardless of the physical site of the disability. The strategy defined nine priority areas of life in which persons with disabilities receive social support. These are areas where other citizens also receive social support: participation in social and political life; economic independence and benefits; social security and social support; health care and disability assessment; employment and professional rehabilitation; education, culture and awareness-raising; family life and accessibility; and, finally, the field of self-organization.

Most activities in the Strategy are directed towards strengthening systemic institutions and the provision of additional resources for enhancing systemic interventions for persons with disabilities. A number of activities are aimed at physically and socially strengthening these persons. Measures of activation and strengthening of persons with disabilities constitute a departure from the traditional, towards a more contemporary understanding of the needs of persons with disabilities. This is particularly evident in activities related to the areas of social security and employment. The activities envisaged in these areas include boosting activation measures in such a way that society can benefit from the competences and remaining abilities of persons with disabilities, their families and their immediate environment.

Systemic Support Measures

Systems for the Protection of Disabled War and Military Veterans and Civilian Victims of War

The system for the protection of disabled war and military veterans certainly belongs among the best-regulated systems for the protection of persons with disabilities. It also possesses the most developed support system, and the most comprehensive records of its beneficiaries. At the same time, this group, together with civilian victims of war, constitutes the most populous category of persons with disabilities in Republika Srpska. Their disabilities were caused by war operations conducted in the territories of Bosnia and Herzegovina and the Republic of Croatia between 1991 and 1995. Due to particular social sensitivity, this system managed to preserve a broad range of benefits supported by the highest level of budget allocations. The benefits provided by this system are not conditioned by the proxy means tests, nor is eligibility determined by the body's functional state, and the needs it dictates. These are status-based benefits in nature, and are related exclusively to criteria dependent on involvement in military action. The benefits available to disabled war and military veterans are: a personal disability benefit; a long-term care and support benefit; an orthopedic benefit; additional financial assistance; a health care allowance and other benefits linked with health care; orthopedic and other aids; spa treatments and climatotherapy; priority in employment and access to housing; tax and customs duty exemptions; elimination of architectural obstacles; provision of parking spaces; priority in access to services of the institutions of Republika Srpska, public institutions and other legal persons, to address their rights and interests; priority in enrolling their children into educational institutions; access to scholarships; and accommodation in student housing. When these measures are added to the benefits these persons receive on the basis of their military services (veterans' benefits etc.), the social support system seems to be most generous to this category of disabled persons.

A similar approach to defining support measures is found in the systemic treatment of civilian victims of war. The Law on the Protection of Civilian Victims of War defines seven benefits that may be received cumulatively. The financial condition of beneficiaries and their families is not a crucial concern when eligibility for these benefits is determined. The introduction of a proxy means test for receiving the monthly cash benefit has had only a small corrective effect, as it was more a consequence of political perception than a real indication of the social needs of these persons. This system provides the following social support measures: a civilian disability benefit, i.e. family disability benefit; a long-term care and support benefit; an allowance for family members unable to work; additional financial assistance; a single parent allowance; a health care allowance; and professional rehabilitation.

While they are the best regulated, systems for the protection of disabled war and military veterans and civilian victims of war produce the least impact on social inclusion and on poverty reduction in Republika Srpska. According to the analyses of the World Bank, systems for the protection of war and military veterans in Bosnia and Herzegovina contribute greatly to discrimination, in terms of access to benefits among persons with disabilities. This is because the interventions of the systems are based on cash benefits that are derived from status rights, founded on the site of the disability and on war services, and not on the real needs of beneficiaries (World Bank, 2009). Very few measures in this system concern the provision of direct support measures. Most support measures take the form of cash benefits funded by the budget

of Republika Srpska. Support measures that are aimed at the activation of these persons are sporadic, and not recognized as priority targets of the activities of these systems. These tend to be individual interventions carried out *ad hoc* within the framework of various programs, without significant impact on the social and economic strengthening of disabled war and military veterans in Republika Srpska. Employment of disabled war and military veterans is frequently prioritized for political action, however little has actually been achieved in this regard. Previous activities within these categories were predominantly aimed at ensuring the allocation of one-off grants for starting businesses, which were generally used to procure machinery and other work-related equipment. Through such an approach, the system for the protection of disabled war and military veterans passivized this group of persons with disabilities, and detached them from proactive measures of social inclusion.

Pension and Disability Insurance System

The pension and disability insurance system is fully based on the concept of social insurance and utilization of the budget of the Pension and Disability Insurance Fund. This system regulates the insurance of workers regarding the risks of old age and disability, which are among the most widespread and significant of social risks. The funds for insurance against these risks are provided by wage contributions, and their distribution is based on the criteria of age and degree of disability.

Operation, and consequently formulation of the measures of social support to the beneficiaries of this system depend on the outcome of the social dialogue between trade unions, employers and the government. Persons with disabilities whose disability arose as a result of work have a very limited number of support measures at their disposal in this system. Pursuant to the law, a worker is eligible for systemic support measures if he/she contracted a disability in the workplace, and his/her capacity for work was diminished or lost completely. In addition to the old-age pension, the disability pension is the most recognizable benefit of this system. It is defined in the same way as the old-age pension, which creates the impression that the disability pension is not a special measure of support for persons with disabilities, but is rather, a surrogate for the old-age pension with attenuated criteria, the most decisive being the time of cessation of active work. In this case, disability is viewed as the factor restricting a person's ability to work. If an employee's ability to work has been assessed as reduced, then he or she, as a person with a disability, is eligible for support measures created exclusively for the facilitation of appropriate working conditions, and for compensatory benefits such as: reassignment to another job; retraining or additional training; and cash benefits linked to a reduced ability to work. There are no other social support measures within this system. In some cases, the benefits provided on this basis are drastically reduced or completely abolished, as, for example, the long-term care and support benefit that this system provided until 2001. Due to the crisis in the health care system, the right to orthopedic aids and access to rehabilitation and spa treatments provided by this benefit have been reduced to a minimum.

The Labor Law establishes support for persons with disabilities in several of its articles. The essence of such support is to provide legal protection for the employment of these persons in accordance with their abilities. A more appropriate form of support is provided by the article permitting one parent of a developmentally challenged child to devote one-half of his/her working time to the nurturing of the child. This support measure is inadequately used due to insufficient awareness of parents, but also because of employers' noncompliance.

Demographic changes, primarily the aging of the population, as well as changes to the structure of the modern labor market and the consequences of the global economic crisis, caused a crisis in existing systems of pension and disability protection, and health care. The reform processes, which did not bypass Republika Srpska, aim to ensure the economic sustainability of funds. The introduction of new models of insurance, an increase in the age limit for retirement and reduction of contribution levels are just some of the measures seeking to support the sustainability of these systems. Success of the support measures for persons with disabilities in this system will depend on the harmony between current demographic, social and economic trends and existing social insurance models.

System of Social Protection

The Law on Social Protection has defined beneficiary groups that, due to their particular needs, have priority in access to social protection measures. In addition to others, persons with disabilities and handicapped children are included in these groups. Persons with disabilities, as well as other beneficiary groups, are eligible for all measures of the social protection systems, provided they meet set criteria. The measures of social protection are interventions of the social protection system, manifesting in cash benefits and social protection services.

The issue of providing support to so-called 'civilian disabled persons' in Republika Srpska has not been resolved in a systematic fashion. Unlike disabled war and military veterans, civilian victims of war and disabled workers, 'civilian disabled persons' have no legally defined system within which they can access their rights. Instead, their issue has been tacitly left to other systems which provide social support to all citizens. 'Civilian disabled persons' are persons whose disabilities are congenital or acquired in the course of their lives and are a result of illness or tragic events (traffic accidents, natural disasters, and other unfortunate life events). These persons are discriminated against systemically, because no system of social support includes rights that would guarantee their social security. Unless they were employed or participated in combat, these persons are not eligible for disability benefits as the basic mechanism for provision of social security. Access to assistance within other systems of social support is dependent on meeting criteria set by those systems, regardless of the degree of disability of the beneficiary. The system of social protection is the only system that has to a degree defined its approach to these persons. Disability represents one of the risks of sliding into the state of social need. For this reason, persons with disabilities belong to a category most often found to be beneficiaries of the system of social protection. The Law on Social Protection mandates assessment of the needs and orientation of handicapped children and youth. This manner of disability assessment is aimed not only at determining the type of impairment or presence of a handicap in a child, but also at identifying his or her developmental potential. Unlike in other systems, within the social protection system there is no mechanism for assessing the degree of disability. Instead, social protection measures are directed at social needs, which are conditioned by the material deprivation or psycho-social factors affecting these persons.

The social protection system does not recognize the status of persons with disabilities, and consequently not a single one of its measures or interventions exclusively targets these persons. However, as persons with disabilities and their families are at particular risk of poverty and social exclusion, a considerable number of them are found on the list of beneficiaries of the social protection system. Most persons with disabilities in this system access the long-term care and support benefit. This benefit is conditioned by an assessment of the beneficiary's functional

state. Financial situation and family support obligations are not taken as eligibility criteria for this benefit. A person over three years of age is eligible for the long-term care and support benefit if he or she has physical, mental, or sensory disorders, pronounced changes in his or her state of health, or needs constant assistance and care from another person. This eligibility is valid on condition that such a person does not qualify for this benefit on any other basis and that he/she is not accommodated in a social protection institution (Article 32). Persons with disabilities are the most frequent beneficiaries because their need for assistance and care from another person are most pronounced. Depending on their degree of dependence, persons with disabilities may be eligible for the long-term care and support benefit through two categories. The first category covers the most severe forms of disability with the highest degree of dependence. The second does not require such a strong need for care and support from another person, and establishes the existence of a partial dependence. Seventeen thousand beneficiaries of the long-term care and support benefit are split one-third to two-thirds between the former and latter categories.

The cash benefit constitutes a social protection benefit intended to support the most economically destitute persons, and its exclusive purpose is to alleviate poverty. Elderly and infirm persons, single-person households and persons with disabilities without relatives to support them are its most frequent beneficiaries. This benefit is determined by the financial condition of the beneficiary, and the necessity of support from his or her relatives. When eligibility for the cash benefit is verified, the long-term care and support benefit are not included as revenues of the beneficiary, which puts persons with disabilities in a more privileged position when applying for this social protection measure. Although the cash amount of the benefit has been considerably increased with the adoption of the new Law, these benefits are not even close to sufficient for providing minimum social security for the most socially vulnerable citizens of Republika Srpska.

The one-off financial assistance benefit permits the social protection system to provide swift and one-off interventions to persons who suddenly descend into a state of social need. Persons with disabilities are frequent beneficiaries of this benefit, and the most frequent reasons they apply to centers for social work to attain it are related to purchases of aids and medicines, and to the payment of health care treatments not covered by the health care system. In addition, applications are frequently caused by the need to resolve difficult life situations that arise suddenly, such as the need to provide basic housing, cover utility costs, purchase heating fuel, cover funeral costs for family members etc.

The benefit for the equalization of opportunities for handicapped children and youth is a measure that provides additional support to high school and university students with disabilities. The intent of this measure is to permit children and youth with disabilities to have access to systemic support and necessary assistance in their education, by funding their living costs in the place where they attend classes. In this way, the social protection system becomes an active contributor to the process through which persons with disabilities attain independence.

Besides social protection measures implemented through cash transfers, persons with disabilities in the social protection system are eligible for support in the form of services. Social protection services are defined as individual measures or a set of measures of direct support that take the form of non-monetary intervention activities, aimed to meet the current and urgent needs of beneficiaries. Social protection services improve the quality of life of persons with disabilities, and represent a direct response to the state of their social needs. They are formulated on the basis of recognizing the needs of beneficiaries, such as the need for accommodation in an institution, accommodation in a foster family, day care, assistance in the home, and counseling.

The social protection system of Republika Srpska has defined several types of special institutions for housing and care for persons with disabilities. Some of them have existed for many years, such as the Center for Handicapped Children and Youth in Derventa, and the Center for Persons with Disability in Prijedor and Visegrad. An alternative to institutionalization of persons with disabilities is placement in families (foster care). Introduction of the concept of foster care into the social protection system of Republika Srpska is currently in its early stages. The development of this service requires standardization of the work of foster care providers and the introduction of specialized foster care, where special attention will be paid to the development of foster care for persons with disabilities.

While institutionalization and placement in foster care are traditional measures of social protection, day care services and assistance in the home represent a new, and still insufficiently visible, model of social support to persons with disabilities. Day care and home assistance are based on providing support services in the immediate environment of beneficiaries. The provision of such services requires a high level of participation from beneficiaries and their families, and constitutes the most effective form of active measures for the assistance of persons with disabilities in the social protection system.

In recent years, day centers for handicapped children ('Centers for Handicapped Children and their Parents') have been opened in several municipalities. The work of these centers revolves around providing specialist support, but also around the improvement of direct communication and transfer of knowledge between parents. Development of these centers emerged from the activities and cooperation of beneficiary associations and centers for social work. There are over twenty such centers in Republika Srpska at this time, constituting a valuable resource for expansion of the network of social institutions of this type. Numerous day centers are developing occupational therapy services (in the form of 'social workshops') in which persons with disabilities, through their own work, highlight the issue of their social inclusion.

Local communities are required to introduce expanded social protection services if they are required to respond to the specific needs of beneficiary groups and are unable to do so through the measures outlined in the Law on Social Protection. Such services are developed in cooperation with, and according to the demands of, beneficiary associations, and are adopted in the form of municipal ordinances on expanded benefits and services. Services that are designed on the basis of direct identification of the needs of beneficiaries, specific to a given local community, ensure greater flexibility of the system and provide more efficient social protection measures. Previously, the most frequently needed social protection services emerging from municipal ordinances were the services of personal assistance and support to work for persons with disabilities ('social workshops'). Personal assistance is certainly the most direct social protection measure and service intended to meet the specific needs of persons with disabilities. It is based on compliance with the fundamental principles of social inclusion, and on the principles of the equalization of opportunities for such persons. This measure is implemented in full partnership with the beneficiary and his or her family, which permits the provision of quality support, aligned with the daily needs of persons with disabilities. The participation of the beneficiary is complete, and departure of the service from needs is minimal.

The social protection system progressed considerably by adopting the new Law on Social Protection, primarily in the area of improving social support to persons with disabilities. However, the absence of support measures that would ensure the social security of such persons (e.g. eligibility for personal disability benefit) represents a fundamental shortcoming of the system.

System of Employment and Rehabilitation of Persons with Disabilities

The domain of employment and professional rehabilitation was defined by the Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities, which was adopted in the Republika Srpska National Assembly in 2004. This Law is based on compliance with international acts in this area, in particular with the UN Convention on the Rights of Persons with Disabilities and the Standard Rules on Equalization of Possibilities for Persons with Disabilities. Standard Rules 3 and 7 require states to provide conditions and resources for the implementation of programs of rehabilitation and employment of persons with disabilities, while observing the principles of accessibility and of their participation in the selection of rehabilitation measures and jobs. Moreover, government institutions must provide support measures for persons with disabilities and their families to ensure that, through various programs, they are as integrated as possible in the processes of social and economic empowerment.

The fundamental intent of this Law is to provide the institutional framework that will permit the development and implementation of specific programs of professional rehabilitation, training and employment of persons with disabilities in the open labor market and under special conditions. The government must support such programs through assorted reliefs and exemptions for employers, aimed to stimulate employment of persons with disabilities. Employment programs for such persons may be implemented in existing workplaces, but also in specialized employment facilities and enterprises. The Law defines specific forms of employment for persons with disabilities: enterprises and institutions for employment under special conditions; sheltered workshops; occupational centers; self-employment; and employment in a family-owned or independent entrepreneurial activity (Articles 18-31). Furthermore, this Law prescribes the obligations of employers and the rights of persons with disabilities during and after termination of employment.

Upon adoption of this Law, the Fund for Professional Rehabilitation and Employment of the Disabled was established, as an important organization for securing necessary funding for the implementation of support measures for the employment of persons with disabilities. The Fund collects revenues that are subsequently used to develop rehabilitation programs and create jobs for the disabled. In addition to other sources, the funds are collected on the basis of the legal requirement that stipulates that enterprises and institutions that do not employ persons with disabilities in their existing workforce must pay monthly contributions. The Law stipulates that all employers must employ one person with a disability for every 16 employees. Revenue collected in this way is used to fund or co-fund jobs for persons with disabilities, employment sustainability programs and various incentives for self-employment of such persons.

The implementation of this Law has achieved the following results to date: an increase in the number of enterprises for the employment of persons with disabilities; an increase in the number of employers drawing on legal benefits on the basis of employment of persons with disabilities; the creation of records of employed persons with disabilities; and the accumulation by the Fund of a certain level of resources, which can be used to support measures for the employment of persons with disabilities. Nevertheless, the process of employment of PwDs still faces insurmountable obstacles, including: economic inactivity; incompatibility of support systems; the absence of an adequate plan of education and professional rehabilitation, aligned with the needs of the labor market; and prejudices and stereotypes against persons with disabilities and their role in society.

Support Measures in other Systems

Measures of support to persons with disabilities are provided in other segments of social activities, such as health care, education, construction, transportation, energy etc. For instance, the health care system provides a range of support measures for such persons. Apart from traditional health care services, specific services intended for persons with disabilities are offered, such as rehabilitation treatment and access to orthopedic aids. The education system has introduced inclusive education, with measures to assist children and youth with disabilities, such as personal assistants for coursework and mobile support teams. Furthermore, educational institutions offer special scholarships for children and youth with disabilities, to support them in their education.

In the area of construction, standards have been introduced that ensure accessibility of premises and services for persons with disabilities, such as access ramps, elevators, and restrooms for the disabled. The provision of special parking spaces, prioritization in resolving of administrative matters, and enrollment in schools under special conditions are among the other measures of support available to persons with disabilities that aim to ensure the social security of these citizens. However, implementation of such measures in reality is rare and insufficient, which undercuts their importance as systemic interventions with the crucial role of providing essential support to persons with disabilities.

Recommendations

To advance the social position and situation of persons with disabilities, it is crucial to improve existing systems of social support. In planning support measures, the first step is to orient these systems to the provision of preconditions for persons with disabilities to live independently. To provide these preconditions, it is necessary to identify the needs of these persons, taking into account the particulars related to type of disability, degree of functionality, gender, age, place of residence etc. It is also necessary to involve persons with disabilities in the process of planning and implementing their support measures. This would fulfill the basic demand of the disabled persons' rights movement, expressed in the motto: 'Nothing about us without us!'

To ensure that these measures are effective, functional, socially sensitive, financially viable and recognized and accepted by society in general, support systems must direct their institutions and implementers to plan and apply support measures for persons with disabilities where other citizens receive such support. Namely, it is of great importance that measures of support to persons with disabilities constitute an integral part of the existing channels and mechanisms of action of public systems, as this serves to avoid discrimination and permits systemic equality of all citizens regardless of disability. In this manner, support to persons with disabilities can be provided within the framework of existing resources, thereby achieving greater cost-effectiveness of the services provided.

The domains where systemic support to persons with disabilities is most intensive are employment, health care, social protection and education. Operation of these systems must be coordinated, because fulfillment of specific tasks within one social support system depends on the condition and operation of other systems. For a real improvement in overall systemic support to persons with disabilities, it is imperative to develop mutual cooperation of these and other

systems of social action. This cooperation between sectors would permit faster and more effective action, thereby yielding better and more direct results in the protection of these persons.

It is important to note that the actions of the institutions involved in these processes must be based on the principles of respect for human rights. Values proclaimed in the United Nations Convention on the Rights of Persons with Disabilities must be incorporated into all systemic solutions, while measures must be implemented in line with the real needs and life circumstances of persons with disabilities.

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AN OVERVIEW OF THE SITUATION AND STATUS OF PERSONS WITH DISABILITIES FROM THE PERSPECTIVE OF THE FEDERATION OF BOSNIA AND HERZEGOVINA FUND FOR THE PROFESSIONAL REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES

Introduction

The Fund for Professional Rehabilitation and Employment of Persons with Disabilities (hereinafter: 'the Fund') was established pursuant to the Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (FBiH Official Gazette, no. 9/10) and the Decree of the Parliament of the Federation of Bosnia and Herzegovina on the Establishment of the Fund for Professional Rehabilitation and Employment of Persons with Disabilities (FBiH Official Gazette, no. 48) of August 9 2010, as a public institution in the domain of social protection.

On 11 March 2011, the procedure of entering the Fund into the Sarajevo Municipal Court Registry was completed on the basis of the previous approval of the Funds Statutes by the Government of the Federation of Bosnia and Herzegovina, issued on 16 February 2011, and as of this date the Fund attained the capacity of a legal person with all rights and obligations attendant to this status. The Fund's headquarters are in Sarajevo, at Vilsonovo Setaliste 10.

The operations of the Fund are public, and the Fund is required to submit the reports on its work to the Parliament of the Federation of Bosnia and Herzegovina for every calendar year no later than 31 March of the following year, along with all appropriate financial reports.

The Federation Ministry of Labor and Social Policy and the Federation Ministry of Finance oversee the legality of the Fund's operations within their respective competencies. The Fund's management body is its Management Board, consisting of seven members: three representatives of organizations of persons with disabilities and four citizens appointed through a public tender procedure implemented by the Government of the Federation of Bosnia and Herzegovina.

The Fund's supervising body is the Supervisory Board, composed of five members, appointed by the Federation Government through a public tender. The Fund is managed by a Director, who represents the institution, and who is responsible for the legality of its operations. The Director is appointed by the Management Board with the prior approval of the Government of the Federation of Bosnia and Herzegovina.

The Fund's field of activity is to implement the policies of improvement to and development of professional rehabilitation and employment of persons with disabilities in the Federation of

Bosnia and Herzegovina, which is specifically defined by Article 5 of the Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (hereinafter: 'the Law').

Overview of the Situation and Status of Persons with Disabilities from the Perspective of the Federation of Bosnia and Herzegovina Fund for Professional Rehabilitation and Employment of Persons with Disabilities

Care for persons with special needs is one of the most prominent features of an advanced civilized society. Such persons, whether of lesser or greater impairment, cannot attain results and meet criteria enforced by modern society. Individuals today have become so independent and powerful with the development of science, technology, medicine and communications, that they have increasingly less understanding for those with particular needs. In a world whose ideals are to have and to be, to participate and to win, to live and enjoy, persons with special needs find it hard to assert their rights, and particularly hard to maintain their dignity and attain equality with so-called 'normal' and 'healthy' persons.

Owing to a rising awareness that persons with special needs are still people, more advanced societies began to tend to the needs of such persons and create conditions for their equal participation in community life. When considering this, one must take into account such problems as the extremely high rate of unemployment in the Federation of Bosnia and Herzegovina, and in the country as a whole, the lack of fiscal discipline, unregistered employment, corruption, political crisis, the inaction of the Government and the nonfunctioning of institutions.

During the preceding two years of its existence, the environment for the Fund's operations was unfavorable. However, the preconditions for the functioning of this institution were persistently developed, and it managed to affirm its role and provide a significant contribution to the improvement of the position of persons with disabilities. This is evident from the results achieved over the previous two years, in terms of the number of persons with disabilities who found employment, the number of those who retained their jobs or even achieved promotions, as well as of the number of persons with disabilities who were included in various programs and projects for professional training, requalification and additional training, and in other professional rehabilitation activities and measures geared to reinforce their competitiveness in the labor market.

In addition, enterprises for the employment of persons with disabilities constitute another proof of sound policy-making in the domain of the promotion of professional rehabilitation and employment of persons with disabilities, as they have, for the most part, successfully weathered the heavy impact of the crisis and continue to survive in the market, mainly due to the Fund's involvement.

Continuing highly unfavorable economic, political and social circumstances are expected in 2013⁴⁰, and they will negatively impact the Fund's operations and development. However, there are some signs that society is starting to emerge from the general social crisis. Improving social

40 Due to the period of writing this text (October 2013) certain data stated in this chapter refer to the year 2013.

circumstances would contribute to the creation of more favorable conditions, and would surely lead to a betterment of the situation of persons with disabilities.

According to global statistics and estimates of the World Health Organization (WHO), one person in every ten is disabled, while this average is certainly even more unfavorable for post-conflict countries. It is of relevance for us that, out of approximately 200,000 persons with disabilities, most of them have been retired on different grounds, and relatively few work in pre-war companies that have survived these turbulent times. Some, lacking any work capacity, are left to the care of society, while in the records of the Federation Employment Bureau there are only 8,000 persons with disabilities seeking employment. We know that some persons with disabilities are registered with the Federation Employment Bureau solely for the purpose of health insurance, so even the figure of 8,000 persons is highly disputable.

Rights and Options for Employment and Self-Employment for all Persons with Disabilities in the Federation of Bosnia and Herzegovina

The Fund's basic role is to: implement the development policies of the professional rehabilitation and employment of persons with disabilities; communicate and coordinate with governmental and non-governmental sectors in finding systemic solutions; create and implement programs/projects of professional rehabilitation; to help employ persons with disabilities; and to collect and distribute funds allocated to it by law.

The Fund strives to ensure that all companies and institutions observe the provisions of the Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities, which would permit identification of the needs of persons with disabilities, and realistic assessment of the potential of their employment. This would help to maximize the Fund's effectiveness. Within the purview of implementation of the Policy of Development and Promotion of Professional Rehabilitation, Employment and Self-employment of all Persons with Disabilities, some of the tasks the Fund performs are as follows:

- provision of technical support to projects for professional rehabilitation and employment of persons with disabilities;
- implementation of the Policy of Development and Promotion of the Professional Rehabilitation and Employment of Persons with Disabilities, with the exception of educational institutions whose basic activity is provision of elementary and secondary education;
- disbursement of cash benefits and subsidies;
- funding and co-funding of employment preservation programs for persons with disabilities;
- funding and co-funding of programs of development of enterprises that employ persons with disabilities and sheltered workshops;
- monitoring of benefit allocation and proper use of funds;
- provision of technical support to the Fund's beneficiaries.

Professional Rehabilitation, Vocational Training and Employment of Persons with Disabilities under General and Specific Conditions

Professional Rehabilitation

Professional rehabilitation, training and employment of persons with disabilities are of special public interest and are in the domain of social protection. Professional rehabilitation is organized and conducted by professional rehabilitation institutions, secondary schools, and enterprises for the employment of persons with disabilities, or other legal persons who meet the conditions to perform training pursuant to this law. Funding for the rehabilitation and employment of persons with disabilities is provided by legal and other persons, who employed a person with a disability on the day the presence of the disability was established, and therefore the person's remaining work capacity was assessed.

For persons who were not employed on the day the existence of disability was established and remaining work capacity assessed, the funding for rehabilitation and employment is provided by the Fund, the Federation Employment Bureau, Federation Pension and Disability Insurance, cantonal employment bureaus, employers' associations, and the budgets of municipalities, cities, cantons and the Federation.

Employment under General Conditions

Persons with disabilities are employed under general conditions on the open labor market, in the government, judiciary, local government bodies, public services, institutions, funds, public enterprises, companies and other legal persons that were not established for the purposes of employment of persons with disabilities.

When employing persons with disabilities, the above entities are required to employ such persons in proportion to the total number of employees in its workforce, specifically at least one person with a disability in every 16 employees. If they employ a sufficient number of persons with disabilities these entities are not subject to the special contribution prescribed by the Law.

Persons with disabilities are accorded priority in employment in the public sector if, in addition to the general requirements, they also meet the specific criteria for the job in question. All persons with disabilities enjoy the right to employment under general conditions, regardless of the type and degree of disability. The Fund provides priority support to this employment under general conditions, through setting priorities for the allocation of cash subsidies.

Employment under Specific Conditions

Persons with disabilities are employed under special conditions in institutions or enterprises that were established to employ such persons. Employment under special conditions includes employment in organizations of persons with disabilities (associations, federations etc.) as well as self-employment (opening a craft shop, performing an independent business activity or farming, as the primary and sole occupation).

Persons with least 60% disability may be employed under special conditions, as may persons with light and moderate intellectual disabilities, and persons with at least 70% disability, if such disability causes reduced work capacity.

Enterprises for the Employment of Persons with Disabilities

An enterprise for the employment of persons with disabilities is an enterprise that must employ no fewer than 40% of its workforce as persons with disabilities, who are entitled to employment under special conditions, with the provision that it must employ at least three such persons. Such an enterprise is established pursuant to the Law on Companies in the Federation of Bosnia and Herzegovina, but it must meet additional criteria pursuant to the provisions of this Law.

Sheltered Workshops

An enterprise for employment of persons with disabilities may attain the status of a sheltered workshop if it employs no fewer than 40%, or no fewer than six persons with at least 70% or greater disability, and 20% or no fewer than three persons with 100% disability, who are entitled to the long-term care and support benefit, relative to the total number of employees.

Self-Employment and Independent Entrepreneurship

Self-employment, as well as employment as an independent entrepreneur, funded by the person with a disability, or his or her family members, are also considered as employment under special conditions. Independent entrepreneurial activity is any such activity performed pursuant to the Law on Crafts and Related Activities in the Federation of Bosnia and Herzegovina, as the primary and sole occupation.

Regardless of whether he/she is a person with a disability, the craft shop owner, if he/she employs a person with a disability who is a parent, spouse or child, is entitled to the refund of taxes and contributions paid for that person, since such employment is considered as employment under special conditions. The above benefits are accorded to persons with disabilities who are employed under special conditions.

Occupational Center

An occupational center is a work institution. If, because of a change in his or her work capacity, a person with a disability is unable to find employment under general conditions or with enterprises for the employment of persons with disabilities, he/she may find employment with an occupational center.

A person with a disability who is unable to achieve a working capacity of over 50% of that appropriate for his/her age, educational level and working conditions is eligible for employment with an occupational center. An occupational center is established for the purpose of work-therapy activities within the framework of the habilitation and rehabilitation of persons with disabilities. An occupational center must engage at least 80% of its workforce as persons with disabilities (including beneficiaries and employed persons with disabilities). In an occupational center, a person with disabilities has beneficiary status.

Financial Incentives Provided by the Federation of Bosnia and Herzegovina Fund for Professional Rehabilitation and Employment of Persons with Disabilities

Cash Refunds for Paid Taxes and Contributions

Enterprises for the employment of persons with disabilities, organizations of persons with disabilities employing persons with disabilities, and persons with disabilities performing independent entrepreneurial activities, are entitled to cash refunds by the Fund for PwDs they employ under special conditions for:

- paid pension and disability contributions;
- paid health care contributions;
- paid unemployment insurance contributions; and
- income tax.

This right is accorded for paid taxes and contributions in the Federation of Bosnia and Herzegovina. A craft shop owner, whether or not he/she is a person with a disability, if he/she employs a person with a disability who is a parent, spouse or child, is entitled to the refund of taxes and contributions paid for that person, since such employment is considered as employment under special conditions.

A sheltered workshop is entitled to the above refunds for all employees, as well as to a subsidy on the net wage of persons with disabilities employed under special conditions, at 30% of the average net wage in the Federation.

Requests for payment of a cash refund can be submitted to the Fund on the ZNN1 form, which may be downloaded from the Fund's website www.fprzoi.ba, or obtained directly from the Fund's offices. The distribution of funds for cash refunds and subsidies is conducted continuously, at the request of the beneficiaries, as a direct legal obligation of the Fund pursuant to Articles 51, 52 and 53 of the Law.

These requests should be accompanied by a calculation of the cash refund, along with information on the persons with disabilities involved, with evidence of taxes and wage contributions paid for such persons and other employees, and with examples of the calculation of wages for persons with disabilities. The evidence of employment and of disability should be enclosed for a person with a disability employed for the first time, as well as other documents prescribed by the Fund's legal acts. The right to the refund of paid taxes and contributions, as well as the right to subsidy of the net wage, are accorded to beneficiaries regardless of any other right they may enjoy in parallel.

Cash Incentives

Pursuant to Articles 48, 54 and 56 of this Law, cash stimuli are one-off grant transfers regulated by contracts between the Fund and the employers employing persons with disabilities, or self-employed persons (defined as the payers of unemployment insurance).

Pursuant to the Law and the Fund's general act, all registered companies in the Federation of Bosnia and Herzegovina are entitled to cash incentives if they, as employers, agree to employ one

or more persons with disabilities whose degree of disability is 60% or higher, as well as a person with a mild or moderate intellectual disability for a period of not less than 12 months, after such persons were unemployed for not less than 30 days prior to the submission of the request for award of the cash incentive.

Persons with disabilities whose degree of disability is 60% or higher are entitled to the cash incentives, as are persons with a mild or moderate intellectual disability, who are self-employed through certain forms of independent entrepreneurial activities, including farming, as the primary and sole occupation.

Cash incentive funds may be used for: one-off cash transfers; grants for adaptation of workplaces and working conditions; soft loans intended for purchases of machinery, equipment, tools and kit required for the employment of persons with disabilities; the compensation of differentials due to reduced work capacity; co-funding a part of the wage of assistants for persons with disabilities in their workplaces; or co-funding of a portion of the wage of the persons with disabilities employed.

Legal persons employing persons with disabilities (employers) and persons with disabilities self-employed through independent entrepreneurial activities should submit applications to the Fund for cash incentives on appropriate application forms, following the publication of a tender.

In awarding cash incentives, priority is accorded to employers who employ persons with disabilities for unlimited periods, i.e. for periods exceeding 12 months, as well as employers who employ persons harder to employ due to the degree and type of their disability, and employers employing persons with disabilities under general conditions in the sense of the provisions of this Law, on condition that the economic sustainability of employment/self-employment is verified, and that other tender criteria are met.

In addition to cash incentives, the companies that employ persons with disabilities under general conditions also receive additional benefits in the form of financial savings, as employment of a person with a disability entails exemption from the payment of the special contribution to the Fund for the employed person in question. Companies that employ persons with disabilities under special conditions also receive, among other benefits, the refund of paid taxes and contributions on the wages of persons employed, as an added incentive.

Funding of Programs/Projects

The Fund's resources allocated for the funding and co-funding of programs and projects are distributed to beneficiaries through tenders. A tender is published in two daily publications in the Federation of Bosnia and Herzegovina and on the Fund's website, in accordance with the Fund's annual operational plan. Each tender defines which companies are eligible to apply. The Fund provides financial support for three basic groups of programs/projects, based on the target segment, the nature of project activities and the needs of beneficiaries:

- Programs/projects for sustaining the employment of persons with disabilities, including employment of persons who conduct a form of independent entrepreneurial activity;
- Programs/projects for the development of enterprises for the employment of persons with disabilities, including new employment; and
- Programs/projects for the professional rehabilitation of unemployed persons with disabilities in order to boost their competitiveness in the labor market.

Table 1: The sequence of steps for the creation of an enterprise, craft shop, sheltered workshop and occupational center – advice and guidelines

ESTABLISHMENT AND REGISTRATION OF AN ENTERPRISE STEPS • Draft the Founding Act with a notary • Submit an application to the court • Make a seal • Register with the statistics agency • Open a transaction account • Register with the tax administration for insurance purposes • Meet other conditions for commencement of operations of an enterprise pursuant to the provision of this Law.	REGISTRATION OF AN INDEPENDENT ENTREPRENEURIAL ACTIVITY – CRAFT SHOP STEPS • Submit an application to the municipality • Make a seal • Register with the statistics agency • Open a transaction account • Register with the tax administration for insurance purposes.
CREATION OF CONDITIONS FOR ACHIEVING THE STATUS OF SHELTERED WORKSHOP In addition to all above conditions attached to an enterprise, a sheltered workshop must employ 40% (or at least six persons) of its workforce as persons with at least 70% disability, or 20% (or at least three persons) of its workforce as persons with 100% disability . A sheltered workshop may be established as a separate accounting unit within an enterprise for the employment of persons with disabilities. Several enterprises for the employment of persons with disabilities may jointly set up a sheltered workshop.	CREATION OF CONDITIONS FOR ACHIEVING THE STATUS OF OCCUPATIONAL CENTER. An occupational center is a public institution registered pursuant to the Law on Institutions. An occupational center may be established as a separate organizational unit of a protected workshop. Relative to the number of employees (including both beneficiaries and employed persons with disabilities), an occupational center must employ a rate of at least 80% persons with disabilities. To meet the criteria for its existence, an occupational center must meet the conditions regarding its premises, equipment and employees' professional qualifications. More detailed requirements for functioning of an occupational center are decreed by the Minister.

The following table contains advice, guidelines and steps for the registration of an enterprise, craft shop, sheltered workshop and occupational center.

Table 2: A matrix of strengths and weaknesses of enterprises, craft shops and sheltered workshops

Enterprise		Craft shop		Sheltered workshop	
Strengths	Weaknesses	Strengths	Weaknesses	Strengths	Weaknesses
Possibility of registration of different activities Liability to the level of invested capital Tax and contribution refunds	More complex registration and closure Higher registration costs Requires business premises, an accountant etc. To gain status of an enterprise for employment of PwDs with at least three employed persons with disabilities entitled to employment under special conditions	Simple registration Low registration costs Bookkeeping can be performed personally Eligible for employment under special conditions and tax and contribution refunds even if the craft shop owner is the only employee If the employed person with disability is closely related: a parent, spouse or child, he/she is eligible for tax and contribution refunds	Hard to add new business activities Full personal liability If employing a person with a disability who is not a family member (e.g. Parent, spouse or child), such an employee is not eligible for tax and contribution refunds	If an enterprise has already been established, it is only necessary to meet the conditions for attaining the status of the sheltered workshop without additional registrations Refunds for paid taxes and contributions for all employees in the sheltered workshop, including persons without disabilities Right to 30% subsidy on average net wage in the Federation of Bosnia and Herzegovina for employed persons with disabilities under special conditions A sheltered workshop may be established as a separate accounting unit that need not incorporate all employees of the given enterprise A sheltered workshop may be jointly established by two or more enterprises in order to attain the status of a sheltered workshop more easily A sheltered workshop may establish an occupational center as a special organizational unit	It is relatively more difficult to meet conditions for attaining the status of a sheltered workshop Greater capital investments Greater likelihood of adaptation of workspaces to the needs of employees in view of the greater degree of disability of employees Lower productivity/greater product costs There is a great possibility for lower productivity in view of the major percentage of disability of employed persons

The matrix illustrates how persons with disabilities may identify the most advantageous form of registration in accordance with their own abilities.

Analysis of Good Practice – Federation of Bosnia and Herzegovina Fund for Professional Rehabilitation and Employment of Persons with Disabilities

As part of the examination of the impact and good practice of the Fund achieved by allocation and distribution of resources, in line with its activities, established pursuant to Article 58 of the Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities⁴¹ and the provisions of the Rule Book on Allocation and Distribution of the Fund's Resources⁴², this section discusses: 1) payment of cash refunds and subsidies, 2) design of a cash incentive for the new employment of persons with disabilities and 3) funding and co-funding of programs/projects, sustaining the employment levels of persons with disabilities, development of enterprises and professional rehabilitation.

Pursuant to the Law and the Rule Book on Allocation and Distribution of Funds for Purposes and to Beneficiaries defined by the Law on Professional Rehabilitation and Employment of Persons with Disabilities, it is prescribed that the Fund's current transfer resources are allocated for the following purposes:

1. payment of cash refunds and subsidies;
2. payment of cash incentives for the new employment of persons with disabilities;
3. funding and co-funding of the following programs/projects: sustaining the level of employment of persons with disabilities, enterprise development and professional rehabilitation.

The following tables present the data on expenditures and impacts categorized by the above-described purposes.

Payment of Cash Refunds and Subsidies

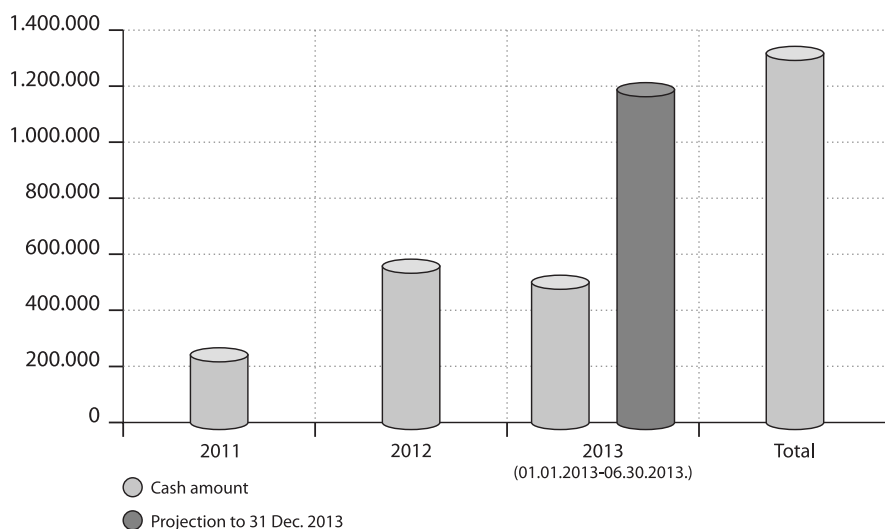
Payments of cash refunds and subsidies are made continuously upon the request of beneficiaries, as this constitutes a direct legal obligation of the Fund, pursuant to Articles 51, 52 and 53 of the Law. A related table follows, with a breakdown of the funds disbursed for 2011, 2012 and 2013, as of 30 June 2013, and with a projection to the end of 2013. The total amount disbursed as of 30 June 2013 was 1,325,239.00 BAM.

41 (FBiH Official Gazette 9/10)

42 The Rule Book on Allocation and Distribution of the Fund's resources, no. 01/02/2/790/13 of 11 April 2013.

Table 3: Amounts of cash refunds and subsidies disbursed

Cash Refunds and Subsidies to Net Wages	2011	2012	2013 (01/01/2013-06/30/2013.)	Total
Cash amount	251,638.00	564,415.00	509,186.00	1,325,239.00
Projection as of 31. December 2013			1,200,000.00	
Number of persons	Cca 76	Cca 170	Cca 213	

*Graph 1: An overview of refunds disbursed, per annum, with a projection to the end of 2013.***CASH AMOUNTS - REFUNDS**

The graph above depicts an overview of refunds disbursed by year, with a projection to the end of 2013 (refund amounts are rising as a result of the number of enterprises and persons covered, due to other activities of the Fund).

The payment of cash refunds and subsidies ensures the sustainability of employment levels of persons with disabilities in the enterprises in which they are employed under special conditions. These enterprises include: enterprises for employment of PwDs (10 enterprises), sheltered workshops (4 enterprises), PwD organizations (31 enterprises) and persons with disabilities who are individual entrepreneurs (79 enterprises). There are other enterprises that benefit from the option of direct exemption from the payment of taxes and contributions.⁴³

The leading causes for rising annual funding allocations and an increasing number of persons on whose account employers receive this benefit include: increased employment of PwDs under

⁴³ In July 2012, the Ministry of Finance issued the opinion that all enterprises for employment of PwDs are required to pay contributions. It was only in July 2013 that the tax regulations were harmonized, so that from July 2013 all enterprises must pay contributions. This differs from the previous situation, where some enterprises paid and received refunds from the Fund, while others took advantage of the system of direct exemptions. This change should also help explain the projection of the refunds' disbursement in 2013.

special circumstances, mostly due to cash incentives provided by the Fund; the Fund's activities on information dissemination and providing expert advice; and the termination of the transition period during which the enterprises for employment of PwDs were directly exempt from the payment of taxes and contributions. The total effect is reflected in the number of employed PwDs whose sustainable employment is supported by the Fund's resources.⁴⁴

Cash Incentives for the New Employment of Persons with Disabilities

Pursuant to Articles 48, 54 and 56 of the Law, cash incentives are one-off grant transfers regulated by contracts between the Fund and employers employing persons with disabilities, or self-employed persons. Cash incentives for the new employment of PwDs are distributed exclusively through public tenders. The accompanying table provides a breakdown of these tenders. A cash incentive is exclusively intended as an incentive for the new employment of PwDs. All employers willing to employ PwDs, as well as all PwDs intending to start independent entrepreneurial activities, are eligible for cash incentives.

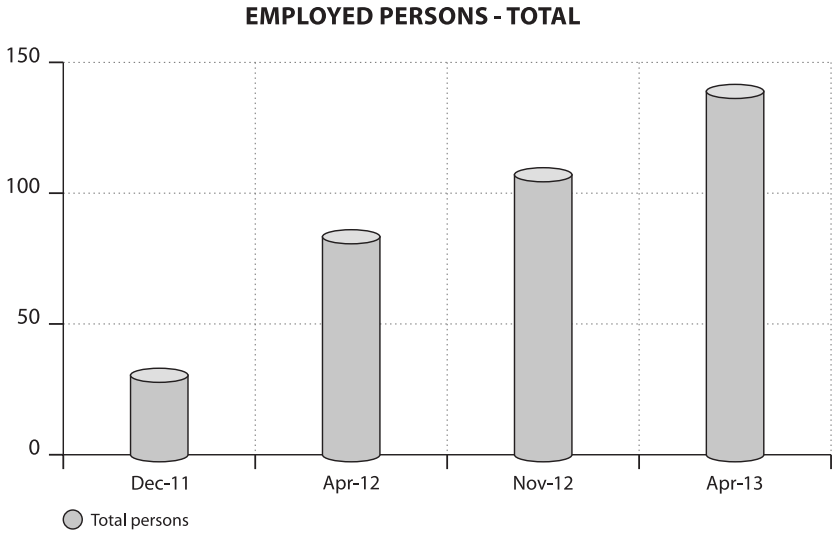
Table 4: An overview of the disbursement of incentives for new employment

Public Tender / Purpose	Dec-11	Apr-12	Nov-12	Apr-13	Total
Incentives	150,000.00	790,848.00	889,640.00	856,350.00	2,686,838.00
Number of Persons	30	83	90	82	285
Incentives for Enterprizes			160,000.00	422,900.00	582,900
Number of Persons			16	56	72
Total Amount	150,000.00	790,848.00	1,049,640.00	1,279,250.00	3,269,738.00
Total Persons	30	83	106	138	357

Table 4 shows that the total amount allocated for this category was 3,269,738.00 BAM, with a total of 357 newly employed persons. A rise in employment with each subsequent public tender is also evident. The average amount of cash incentive per person is 10,000 BAM per one-year employment period.

44 Analytical overviews of disbursements and impact by beneficiaries are supplied in the Fund's financial statements.

Graph 2: Overview of newly employed persons per public tender (constant growth)



This graph clearly shows a continuous increase in the number of newly employed persons following each subsequent public tender.

Funding and Co-Funding of Programs/Projects, Sustainability of the Employment Level of Persons with Disabilities, Enterprise Development and Professional Rehabilitation

The Fund’s resources allocated for the funding and co-funding of programs and projects are distributed to beneficiaries through public tenders, and divided into three segments by intended purpose:

- a) funding and co-funding of programs/projects for maintaining the current level of employment of persons with disabilities;
- b) funding and co-funding of programs/projects for the development of existing enterprises for the employment of persons with disabilities, and sheltered workshops, including new employment of persons with disabilities; and
- c) funding and co-funding of programs/projects for the professional rehabilitation of unemployed persons with disabilities.

Enterprises for the employment of PwDs, sheltered workshops and professional rehabilitation institutions are eligible for funding and co-funding of programs/projects.

The overview of allocations for the funding and co-funding of programs/projects by tender, is presented in the following table.

Table 5: Allocations for the funding and co-funding of programs/projects by tender:

Public Tender / Project	Sustainability	Development	Rehabilitation	Total Amount
Dec-11	553,075.00	132,800.00	164,125.00	850,000.00
Apr-12	400,000.00	499,152.87	294,810.00	1,193,962.87
Nov-12		727,724.81	229,300.00	957,024.81
Apr-13		540,200.00	180,100.00	720,300.00
Total	953,075.00	1,899,877.68	868,335.00	3,721,287.68

Note: In terms of allocations for the funding and co-funding of programs and projects, enterprise development projects for November 2012 and April 2013 include the new employment of PwDs

Table 5 shows that the total amount allocated for this category was 3,721,287.68 BAM. This amount was distributed between 23 enterprises and sheltered workshops, and the total number of employed PwDs was around 200.

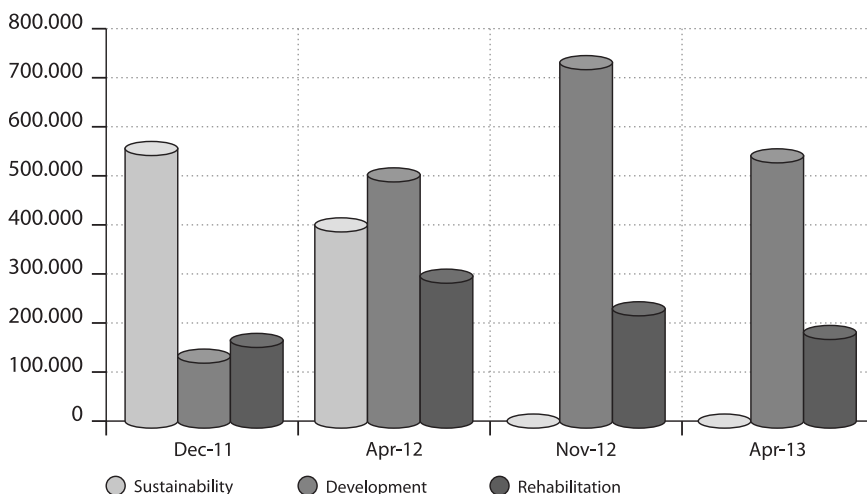
Table 6: An overview of job profiles for persons with disabilities, by public tender.

Job Profile/Public Tender	December 2011	April 2012	November 2012	April 2013	Total Persons
Shop Assistant	4	13	1	5	23
Janitor		7	4	5	16
Sales Representative				1	1
Administrative Tasks	2	38	18	14	72
Software Programmer	1		2	4	7
Assistant	11	6	33	15	65
Financial Tasks	2		5	6	13
Driver	3	1		1	5
Claims Settlement Clerk				1	1
Lawyer	1		5	3	9
Manager		2	2	1	5
Upholsterer				1	1
Tailor		2			2
Car-Body Repairman			1		1
Phone Operator				2	2
Architect				1	1
Medical Technician			1	1	2
Shoemaker				1	1
Social Worker				1	1
Journalist				3	3

Job Profile/Public Tender	December 2011	April 2012	November 2012	April 2013	Total Persons
Tinsmith	1				1
Construction Worker			2		2
Security Guard	2	1			3
Physio Terapist		8	1	1	10
Caterer			1		1
Waiter			3		3
Cook	1		2		3
Facility Operator	1				1
Graphic Designer	1		3		4
Farmer		5	6	14	25
Sports Coach				1	1
Total	30	83	90	82	285
Incentive For Enterprises – In Nov. 2012 And April 2013			16	56	72
Total Persons					357

This Table presents the most frequent job profiles for the employment of persons with disabilities through public tenders

Graph 3: An overview of allocations by project type (showing an increase in development)



This graph presents an overview of allocations by project type, and an increase in the share of the development category is detected.

The impact of these funds is reflected in the following aspects: by ensuring the sustainability of the level of employment of PwDs in enterprises and sheltered workshops; permitting efficient

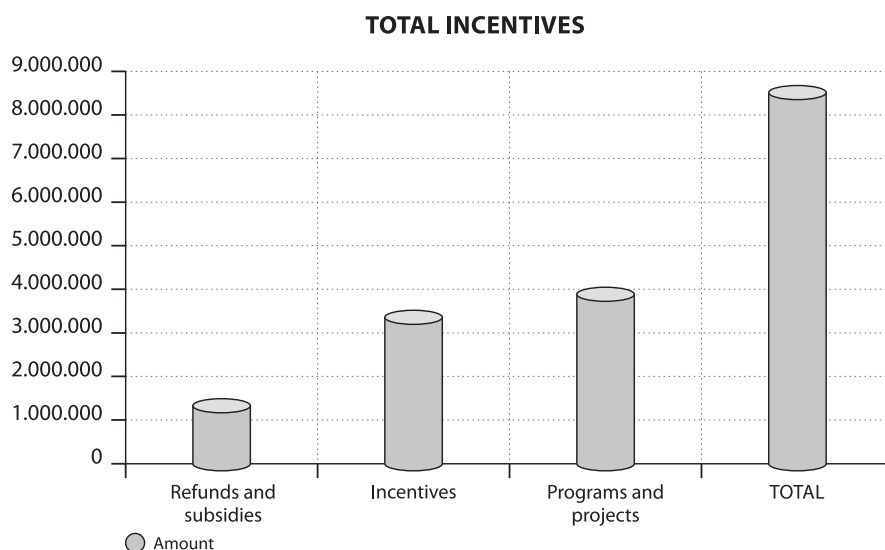
operation of the beneficiaries in the market; ensuring the liquidity and solvency of enterprises and sheltered workshops; having a beneficial effect on business performance, by boosting profits or reducing losses; increasing the overall number of employees; and by ensuring the provision of better technical equipment, which increases productivity and improves work conditions for PwDs.

Table 7: Cumulative overview of all incentives provided by the Fund

TYPE OF INCENTIVES	AMOUNT
Refunds and subsidies	1,325,239.00
Incentives	3,269,738.00
Programs and projects	3,721,287.68
TOTAL	8,316,264.68

This table presents all incentives disbursed to date, noting that the Fund for Professional Rehabilitation and Employment of Persons with Disabilities began its operations in March 2011.

Graph 4: A graphic presentation of incentives disbursed



All other activities related to the raising of funds (particularly the collection of contributions from Articles 18 and 19 of the Law) and to the execution of the above-mentioned and other tasks of the Fund, as well as to the implementation of the Professional Rehabilitation and Employment Policy were carried out by the Fund in complete independence. Expansion of all segments of the Fund's operations was set as the goal.

The data presented so far illustrate the success in attaining the set goal. Further activities will aim both to boost growth and to improve the quality of services provided for the professional rehabilitation and employment of persons with disabilities.

Potential for the Strengthening of Institutional Mechanisms and Solutions for Employment and Self-Employment of PwDs in the Federation of Bosnia and Herzegovina

Independently or in cooperation with other institutions, the Fund must take action in the following areas:

- introduction of record-keeping and statistical data processing;
- support to beneficiaries and improvement of professional rehabilitation;
- safeguarding proper use of the Fund's resources; and
- establishment and development of cooperation with PwD associations and organizations, enterprises and institutions.

Introduction of Record-Keeping and Statistical Data Processing on Persons with Disabilities and those who Employ them

The establishment and regular keeping of records, as well as statistical processing and digital storage of data on both employed and unemployed persons (and those who employ them in the case of the latter) are of great importance for the success of the Fund's operations in terms of the efficient, effective and fair utilization of available resources and proper activity planning. As such records or corresponding databases in the Federation of Bosnia and Herzegovina and in the country as a whole are either non-existent or available in only rudimentary, localized and partial form, the Fund is in a position to initiate certain actions in this regard, either independently or in cooperation with other relevant institutions. Alongside the needs arising from its core role and domain of activities, a requirement to this effect is contained in both the Law itself and the relevant by-law on record-keeping.

Although certain relevant activities were initiated during the previous two years, it will be necessary to introduce a more efficient and systematic approach in 2013.

To this end, the following activities are planned:

- initiation of sorting and systematization of information on employed persons with disabilities and those who employ them. Such data are available in the Fund, and are obtained through the procedure of applying for cash refunds, subsidies and cash incentives, as well as for grants for the funding/co-funding of programs, and projects for professional rehabilitation and employment;
- initiation of the collection, sorting and storing of information from cantonal employment agencies, centers for social work and organizations of persons with disabilities regarding persons who are eligible for, and participate in, professional rehabilitation, and on unemployed and employed persons with disabilities;
- development of new record-keeping forms for employers employing persons with disabilities, which could be submitted electronically;
- development of appropriate unified forms for the storage and statistical processing of data on persons with disabilities and those who employ them;
- development of an employment template for persons with disabilities that would be proposed to the Federation Bureau and cantonal employment agencies in order to establish and maintain a standardized form of record-keeping on unemployed and employed persons with disabilities.

Support to Beneficiaries, and Activities and Measures of the Implementation and Strengthening of Professional Rehabilitation and Employment of Persons with Disabilities

The implementation of the Professional Rehabilitation and Employment of Persons with Disabilities Policy is conducted through certain forms of support to the Fund's beneficiaries. These beneficiaries are primarily persons with disabilities, institutions for professional rehabilitation, employers employing persons with disabilities, enterprises for employment of persons with disabilities, and sheltered workshops.

In order to further develop the above activities and measures, the Fund has planned the following activities:

- ensuring regular disbursement of cash refunds for tax and contribution payments to enterprises for employment of persons with disabilities, and subsidies for sheltered workshops for employed persons with disabilities;
- assessment of the potential for the new employment of persons with disabilities in 2014 – through application for cash incentives for employers, or persons with disabilities who will become self-employed through the initiation of independent entrepreneurial activities – in an effort to use this approach to create a more significant impact on the employment of PwDs;
- assessment of the potential for sustaining the employment of persons with disabilities who were employed for limited periods of time, by creating new labor contracts with such employers for limited or unlimited periods of time, and issuance of a public tender in 2014 for the distribution of grants to fund/co-fund programs/projects for sustainable employment of persons with disabilities;
- issuance of two regular public tenders for the funding/co-funding of programs and projects of developing companies for employment of persons with disabilities;
- issuance of two regular public tenders for the funding/co-funding of programs and projects of professional rehabilitation, and for the training of unemployed persons with disabilities to make them more competitive in the labor market;
- initiation of discussion, in cooperation with the Federation Ministry of Labor and Social Policy, of the potential establishment of institutions for the professional rehabilitation of persons with disabilities, at both canton and entity levels in the Federation of Bosnia and Herzegovina, which would conduct assessments of a PwD's remaining work capacity, and meet his/her additional training or re-training needs.

Safeguarding of Proper Use of the Fund's Resources

The Fund is legally responsible for safeguarding proper use of funds disbursed to beneficiaries, for any and all purposes (including cash refunds and subsidies, cash incentive grants, funding/co-funding of programs and projects, and funding of institutions). Consequently, as important components of the Fund's operations, the development of the project implementation monitoring function and the controls of proper use of funds disbursed to beneficiaries, must be accorded particular attention and significance.

To this end, the following activities have been planned:

- establishment of a separate sector for overseeing the proper use of funds received by beneficiaries from any source;
- continuous and systematic specialist monitoring and verification of the facts that constitute the basis for eligibility for cash refunds and subsidies, and which are stated and substantiated in the payment claims;
- expert analysis and verification of the reports on proper use of funds, regarding cash incentives for the new employment of persons with disabilities;
- expert analysis and oversight of the reports of professional rehabilitation institutions and enterprises for employment of persons with disabilities, and on proper use of funds disbursed through public tenders;
- organization of direct checks with employers who employed persons with disabilities, and with self-employed entrepreneurs (persons with disabilities), who were recipients of cash incentives for new employment or self-employment, where there is reasonable doubt that such persons have managed to fulfill their obligations according to their contracts with the Fund;
- conducting of procedures to determine responsibility, and impose penalties against beneficiaries who abused funds received as cash incentives or for funding/co-funding of programs and projects in accordance with the Law and the signed contract.

Establishment and Development of Cooperation with Associations and Organizations of PwDs, Enterprises and Institutions

As establishment of good cooperation between the Fund and other institutions involved in the implementation of the Policy for the Advancement of Professional Rehabilitation and Employment of Persons with Disabilities is a precondition for attaining anticipated results in this field, the Fund will take the following steps to strengthen this cooperation:

- maintain continuous cooperation with competent Federation and cantonal ministries, the Federation Employment Bureau and cantonal employment agencies;
- improve continuous cooperation with the Council of Organizations of Persons with Disabilities in the Federation of Bosnia and Herzegovina – and with federations and associations of persons with disabilities on all levels – to ensure the exchange of information and ideas;
- nurture and develop cooperation with enterprises, sheltered workshops and institutions for professional rehabilitation, in order to enhance the Fund's planning activities, and improve preparation and implementation of programs and projects of professional rehabilitation and employment;
- participate in conferences, round table sessions, workshops and seminars on the professional rehabilitation and employment of persons with disabilities;
- develop cooperation with the Republika Srpska Fund and counterpart institutions in neighboring and EU countries, and promote exchange of information and ideas, organize mutual working visits, and participate in the preparation and implementation of joint projects.

Conclusions and Recommendations for Improvement of Policies in the Federation of Bosnia and Herzegovina

- collection, sorting and storage of information from cantonal employment agencies, centers for social work and organizations that bring together persons with disabilities, regarding persons who are eligible for (and/or participate in) activities of professional rehabilitation, as well as on employed and unemployed persons with disabilities;
- establishment of regular record-keeping, statistical processing and digital storage of data on both unemployed and employed persons with disabilities, as well as on employers who employ persons with disabilities (this is of major importance for the success of the Fund's operations with regard to effective, efficient and fair use of available resources and sound planning of future activities);
- in cooperation with the Federation Ministry of Labor and Social Policy, the Fund will initiate discussion regarding the establishment of institutions for professional rehabilitation for persons with disabilities, both on cantonal and entity level in the Federation of Bosnia and Herzegovina, which would conduct assessments of remaining work capacity and of the needs for retraining and additional training of persons with disabilities;
- establish ongoing institutional cooperation with enterprises, sheltered workshops and institutions for professional rehabilitation, in order to ensure better planning of the Fund's operations, as well as better preparation and implementation of programs and projects of professional rehabilitation and employment;
- strengthen cooperation with the Council of Organizations of Persons with Disabilities in the Federation of Bosnia and Herzegovina, and expand and establish cooperation with federations and associations of persons with disabilities on lower levels;
- develop cooperation with the Republika Srpska Fund and related institutions in neighboring and EU countries, and promote the exchange of information and ideas, organize mutual working visits, and participate in the preparation and implementation of joint projects;
- draft amendments to the Law on Professional Rehabilitation and Employment of Persons with Disabilities and adapt it to current needs;
- use the media to highlight the situation of PwDs, through dedicated programs, reports and campaigns, placing special emphasis on the potential for their equal participation in society;
- in the context of the extremely complex organization of the country, strive to ensure implementation of conventions, strategies and policies through umbrella laws, which should permit attainment of equal standards for PwDs in all territories of Bosnia and Herzegovina.

Sources:

- Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities, 'FBiH Official Gazette' no. 9/10;
- Decrees on establishment of the Fund for Professional Rehabilitation and Employment of Persons with Disabilities, 'FBiH Official Gazette' no. 48/10, of 9 August 2010;
- The Statutes of the Fund for Professional Rehabilitation and Employment of Persons with Disabilities 'FBiH Official Gazette' no. 28/11;
- Rule Book on Allocation and Distribution of the Fund's Resources as per categories and beneficiaries, no. 01-02-2-2444/13;
- The Fund's Plan of Activities for Professional Rehabilitation and Employment of Persons with Disabilities for 2013, no. 01-02-4-794/13, of 11 April 2013;
- 2012 Report on the Operations of the Fund for Professional Rehabilitation and Employment of Persons with Disabilities, no. 01-02-4-660/13, of 28 March 2013;
- Financial Report for the period 1 January-31 June 2013, no. 01-02-4-2451/13;
- 2012 Financial Plan Execution Report, no. 01-02-4-550/13;
- 2012 Activity Report of the Federation Employment Bureau;
- Proposed amendments to the Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities;
- Rule Book on the Content and Manner of Conducting Supervision of the Legality of Operations, By-Laws and the Professional Work of Institutions, Enterprises, Sheltered Workshops and Occupation Centers, by the Federation Ministry of Labor and Social Policy, 'FBiH Official Gazette' no. 21/11, of 25 April 2011;
- Rule Book on Jobs and Work Tasks in Which Priority of Employment in the Public Sector is Accorded to Persons with 100% Disability, by the Federation Ministry of Labor and Social Work 'FBiH Official Gazette' no. 21/11, of 25 April 2011;
- Rule Book on Detailed Conditions in Terms of Premises, Equipment and Specialized Equipment for Employees in Occupational Centers, by the Federation Ministry of Labor and Social Policy 'FBiH Official Gazette' no. 21/11, of 25 April 2011;
- Rule Book on the Contents and Manner of Record-Keeping for Employed Persons with Disabilities, by the Federation Ministry of Labor and Social Policy 'FBiH Official Gazette' no. 21/11, of 25 April 2011.

AN OVERVIEW OF THE SITUATION OF ALL PERSONS WITH DISABILITIES AND OPTIONS FOR THEIR EMPLOYMENT AND SELF-EMPLOYMENT - FROM THE PERSPECTIVE OF THE REPUBLIKA SRPSKA FUND FOR THE PROFESSIONAL REHABILITATION AND EMPLOYMENT OF THE DISABLED

Introduction

The right to work is one of the fundamental human rights, guaranteed and safeguarded by key international documents, which are founded on the principle that each person has innate, equal, inalienable and universal rights, springing from the dignity of all human beings.

As the results of 2013 population census in Bosnia and Herzegovina have not yet been published, the precise number of inhabitants in Republika Srpska is as yet unknown, although it is assumed that the number of inhabitants in this territory is around 1.4 million. Among other consequences, the 1991-1995 war inflicted disability on a large number of persons. Owing to the lack of reliable records, estimates of the number of persons with disabilities are often unrealistic and inaccurate. However, under such circumstances, and taking into account all available data and the evaluations of numerous associations of persons with disabilities, it is assumed that there are around 70,000 such persons living in the territory of Republika Srpska. Disabled war veterans account for the majority of persons with disabilities, and this population is estimated to number around 45,000.

The absence of adequate analysis and statistical data greatly complicates development of appropriate guidelines that might help solve the problems of categorizing persons with disabilities. Current legislation does not cover all the rights of persons with disabilities in one place. The organizations that gather this information – which have exhibited sustained interest in regulating the issues pertaining to persons with disabilities – have repeatedly requested the competent authorities to adopt a law that would adequately regulate employment-related rights. The Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities was adopted in November 2004. The Law was amended in 2006 and 2009, while the new Law was adopted in 2012. The current legal framework has been published in the Republika Srpska Official Gazette no. 37/12.

Upon adoption of the legal solutions that regulated the domain of employment of persons with disabilities, the Fund for Professional Rehabilitation and Employment of Persons with Disabilities started its work in November 2005.

Overview of the Situation and Status of PwDs from the Perspective of the Republika Srpska Fund for Professional Rehabilitation and Employment of the Disabled

Over the eight years of the Fund's operations, it was found that significant differences existed in terms of both treatment and rights of persons with disabilities, with regard to the origin of disability. Disabled war veterans, peacetime military disabled persons and civilian victims of war exercise their rights in accordance to the Law on the Rights of the Veterans and Disabled War Veterans, while persons whose disability originated due to other circumstances base their rights on the Law on Social Protection.

The Law on Professional Rehabilitation, Training and Employment of the Disabled, which defines the right of persons with disabilities to employment, disallows discrimination of disabled persons on the basis of the form and origin of their disability. All persons with disabilities whose disability is regulated by this Law enjoy equal rights.

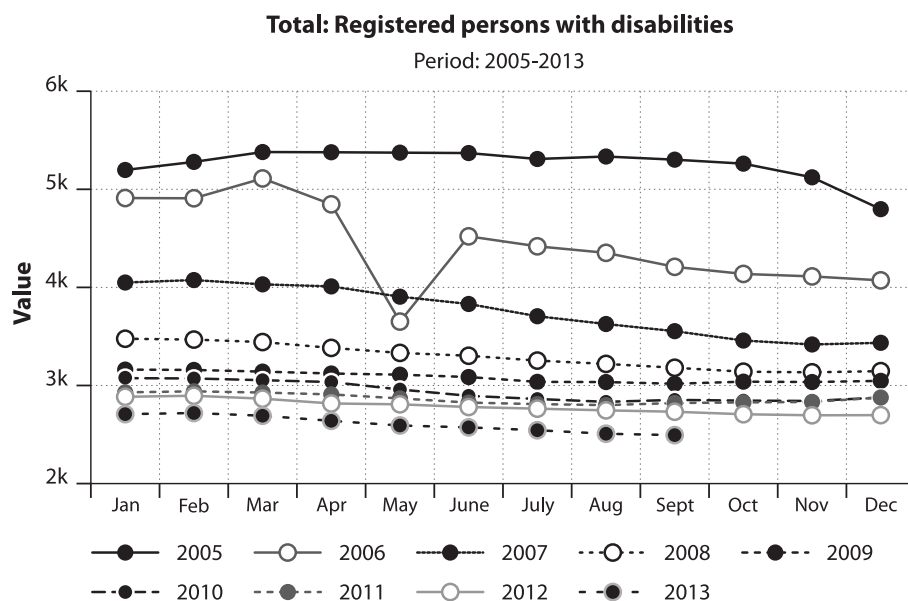
The federations of associations of disabled persons of Republika Srpska are united in the umbrella organization KOOIRS (Coordination Board of Organizations of the Disabled of Republika Srpska).

During 2006, the Fund sought to contact all such federations and associations in order to collect specific numbers on persons with disabilities, their remaining work capacity, and other parameters that would help define a strategy for their employment. Through these interactions, it was found that only a fraction of persons with disabilities were registered with associations that covered their form of disability.

An additional and peculiar problem arises for the rural sector of this population; the geographical isolation of such persons caused them to be deprived of information from numerous pieces of legislation that might have allowed them to access certain rights.

Disabled war and military veterans need not be registered with the Republika Srpska Employment Bureau to access their right to health care. On one hand, this legal provision, makes it easier for such persons, since they do not have to report to the Bureau on a monthly basis to ensure that their rights remain active. On the other hand, however, this situation obscures precise information about the number of unemployed persons with disabilities.

Graph of unemployed persons with disabilities, according to the records of the Republika Srpska Employment Bureau, as of 14 November 2013:



	2005	2006	2007	2008	2009	2010	2011	2012	2013
Jan	5189	4906	4042	3481	3154	3073	2910	2880	2701
Feb	5269	4907	4069	3458	3150	3065	2934	2891	2716
Mar	5369	5108	4025	3426	3129	3059	2921	2856	2690
Apr	5374	4844	3998	3377	3112	3022	2902	2812	2637
May	5368	3661	3901	3323	3100	2957	2864	2794	2587
June	5360	4509	3825	3300	3071	2883	2815	2770	2569
July	5301	4415	3697	3255	3036	2854	2799	2752	2535
Aug	5324	4345	3624	3212	3030	2814	2799	2733	2503
Sept	5291	4206	3544	3170	3009	2835	2819	2722	2490
Oct	5255	4134	3452	3134	3023	2838	2820	2706	
Nov	5108	4100	3410	3125	3034	2834	2823	2690	
Dec	4796	4063	3424	3135	3039	2870	2872	2689	

The data presented in the graph illustrate the decline in the number of unemployed persons over the observed period, in parallel with the period of the Fund's operation, i.e. of implementation of the Law on Professional Rehabilitation, Training and Employment of the Disabled.

Table no. 1⁴⁵

Year	Number of unemployed persons with disabilities
September 2005	5,291
September 2006	4,206
September 2007	3,544
September 2008	3,170
September 2009	3,009
September 2010	2,835
September 2011	2,819
September 2012	2,722
September 2013	2,490

The considerably reduced number of unemployed persons with disabilities in the Bureau's records has not been solely the result of increased employment of this population, but also of retirement, elimination from the Bureau's records, and other demographic factors.

The data in this diagram illustrate the imbalance between the estimated number of persons with disabilities in Republika Srpska, relative to the number of these persons registered as unemployed.

An analysis of this data would lead to the conclusion that, of the estimated 70,000 persons with disabilities, around 67,000 have secure livelihoods, either through employment or pensions, which was in practice proven to be incorrect.

Disabled war and military veterans, as recipients of disability benefits, are in some ways economically stronger than other persons with disabilities. Assistance for persons with disabilities who are 'non-war' disabled takes the form of a benefit provided by the Center for Social Work in their local community, and amounts to 82 KM per month. According to the data of the Federation of Trade Unions of Republika Srpska, the cost of living for August 2013 was 1,785.78 KM, making it clear that such persons are forced to work, if their remaining physical and intellectual capacity permits. One might say that, in such a situation, the right to work as a fundamental human right is not an option, but the sole possibility to secure their livelihoods.

The large numbers of unemployed persons in Republika Srpska are the result of a difficult socio-economic situation. Disabled persons are socially marginalized, and it is clear that it is very difficult for them to find employment in the open labor market, both because of the general situation in society, and due to unnecessary prejudices.

The Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities offers a range of legal benefits and incentives, both for employers who employ persons with disabilities and for persons with disabilities themselves who are self-employed. This should have the

45 Because of the timing of the drafting of this material, the month of September was selected to present a comparison of a crucial moment in the period of 2005-2013.

effect of minimizing currently prevailing prejudices regarding the working capacity of persons with disabilities, and should also entice employers, once they realize the economic benefits this Law offers them, to take the lead by employing more such persons.

Rights and Options for the Employment and Self-Employment of all PwDs in Republika Srpska

The right to employment for persons with disabilities not only provides economic (i.e. survival) benefits to such persons, but also matters as a factor of social inclusion within the community.

The right to work implies the right to a free choice of employment, with employment emerging as a basic manner of social inclusion for persons with disabilities into all aspects of social life. Incorporation of such persons into workplaces brings social benefits, in addition to personal and economic ones. The employment of PwDs reduces social transfers, and strengthens the position of family members, who, owing to the employment of the person with a disability, may return to normal life.

The Law on Professional Rehabilitation, Training and Employment of Disabled Persons defines that employment of the disabled is mandatory in Republika Srpska's administrative bodies, local governance bodies, judiciary bodies, public institutions and funds, and in public enterprises that were not established to employ disabled persons in accordance with this Law. It is also stipulated that one person with a disability is to be employed in every 16 employees. If these institutions fail to meet the above requirement, they are obliged to calculate and transfer a special contribution of 0.2% on the gross wages of all employees. These funds are accumulated in the Fund for Professional Rehabilitation.

The private sector has been regulated in a similar fashion. Previously in this sector, the lawgiver was not permitted to impose the requirement on employers to mandatorily employ persons with disabilities, so it was stipulated that private employers who employed PwDs would be entitled to receive certain advantages or benefits. Employers with one disabled worker in every 16 employees are not required to pay the special contribution, which has been set for this sector at 0.1% of the gross wages of all employees. This Law banned any discrimination with regard to employment. Both 'war' and 'non-war' disabled enjoy the same rights.

The Law covers persons with no less than 40% disability. The disabilities of war and military disabled are mainly covered under this option, as are persons with no less than 70% physical impairment, while persons with mild and moderate intellectual disabilities constitute the third category of disabled persons covered by this Law.

It is important to note that war and military disabled do not lose the right to their disability benefits when they find employment. The Fund does not perform direct employment of the disabled with employers, but rather provides financial intermediation between the two.

Incentives Provided by the Law on Professional Rehabilitation, Training and Employment of the Disabled in Republika Srpska

Employing disabled persons earns the rights to certain incentives financed by the Fund:

- public sector employers are exempt from payment of the special contribution (0.2% on gross wages of employees) if they employ a disabled person as per the established quota (1 employed PwD per 16 employees);
- private sector employers are exempt from payment of the special contribution (0.1% on gross wages of employees) if they employ a disabled person as per the established quota (1 employed PwD per 16 employees);
- employment, or self-employment of persons with disabilities (in the private sector) entitles employers, or the disabled persons themselves, to cash incentives for initiating funds to equip or adapt the workplace for the disabled person;
- refunding of paid contributions is the most significant incentive provided by this Law, as it constitutes a continuous revenue for employers or PwDs in a substantial amount, consisting of all mandatory contributions paid on the wage of the disabled person;
- requalification of disabled persons, if an employer expresses the need for employing such a person, but the person in question does not have the appropriate skills or training.

Further incentives for companies that have the status of 'enterprises for employment of the disabled' can be found below.

Companies that employ over 51% of their workforces as persons with disabilities acquire the status of enterprises for employment of the disabled. In addition to the above-mentioned incentives relating to private sector companies, there are further incentives for enterprises for employment of the disabled, as follows:

- electricity is charged at the household rate;
- all other utility costs are charged at household rates;
- phone services are charged at the household rate.

The public sector is required to procure 20% of its needs from such enterprises. Persons with disabilities who, for any reason, cannot register their own businesses or find employment with an employer, may use the incentive entitled 'Economic Support' which takes the form of one-off grants, through an appropriate association, for the procurement of cattle, agricultural machinery etc. This incentive is primarily approved for persons residing in rural areas of Republika Srpska.

Analysis of Good Practice of the Republika Srpska Fund for Professional Rehabilitation and Employment of the Disabled

The Republika Srpska Fund for Professional Rehabilitation and Employment of the Disabled commenced operations on 1 November, 2005.

At the outset, the Fund invested considerable efforts into developing awareness of employers regarding the enforcement of the Law on Professional Rehabilitation, Training and Employment of the Disabled. The requirement for payment of the special contribution, or of employment of

a person with disability, was highlighted. Employers accepted this requirement with considerable difficulty.

In 2006, once the budget was prepared, the Fund started disbursing refunds of paid contributions to employers employing persons with disabilities. During 2007, it published its first Tender for employers to employ unemployed disabled persons, and stimulated its adoption with a cash incentive. In the Fund's first years of operation, these two incentives accounted for approximately equal annual amounts, but in time, much more was spent on refunds of paid contributions than on the cash incentive for equipping the workplace.

Data on the number of disabled persons for whose workplaces funding has been provided are presented in the following table:

Table no. 2
Employed persons with disabilities

No.	Business year	No. of employed persons with disabilities
1	2007	113
2	2008	255
3	2009	224
4	2010	188
5	2011	220
6	2012	275
7	2013	82
	Total	1.357

The fact that the Fund signs a contract on mutual rights and obligations with an employer regarding a cash incentive upon the employment of a disabled person, and that, upon the continued employment of the disabled person it disburses refunds of paid contributions for this person, does not necessarily constitute the certainty that the disabled person will remain employed after the end of the contractual two-year period.

Current practices reveal that only in about one-half of cases do employers retain employed persons with disabilities two years after signing the contract. The reasons are manifold, with the general economic status of the economy a possible first cause in the light of evident numerous closures of shops and companies, due to their failure to survive in the market.

The refund of paid contributions is a much more significant incentive for employers who employ persons with disabilities. The Fund refunds these contributions to the employer on a monthly or quarterly basis. The lowest legal monthly wage in Republika Srpska is 370 KM, with its associated contributions totaling 202.49 KM. The disbursement of contribution refunds to employers constitutes a continuous financial incentive. In the previous period, from October 2013, 1,050 employers applied to the Fund for this incentive. Significantly, this ensured employment for around 1,150 persons with disabilities, and retained the existing level of their employment.

In the course of 2013, 115 new beneficiaries of the right to contribution refund applied to the Fund. During interactions with these employers, it was determined that, until the moment they contacted the Fund, they had not been aware of the options provided by the Law. There are also cases of abuses in the form of enormous wage increases for persons with disabilities relative to other employees holding jobs of the same type.

Those persons with disabilities who perform their activity as part of a family business mainly retain their employment, survive and continue to work, availing themselves of the incentives provided by the Fund. However, the greatest examples of surviving the market are demonstrated by enterprises for employment of the disabled. Most such enterprises are registered through the initiatives of veterans' organizations, in close cooperation with local communities.

Patriot d.o.o. Enterprise for Employment of the Disabled from Bijeljina is the enterprise that employs the largest number of persons with disabilities in Republika Srpska.

Patriot d.o.o., Bijeljina

Patriot d.o.o. was established in 2001. The enterprise operates in the service sector, and performs activities such as: collection of parking fees; maintenance of green spaces; clearing canals; and support tasks in the Sveti Vračevi General Hospital in Bijeljina.

The jobs that this company performs are obtained through application to tenders issued by the local community.

Patriot first applied to the Fund in January 2006, requesting refunds for contributions paid in 2005. Out of a total of 20 employees, 15 were persons with disabilities. The fund refunded the contributions for November and December (in line with the date of commencement of the Fund's operations).

Over the subsequent seven years the Fund has provided assistance to this enterprise, an increase in employment has been recorded. During 2012, the number of employed persons with disabilities for whom the Fund disbursed refunds reached up to 36 employed persons with disabilities (including seasonal workers).

Patriot d.o.o. has the status of enterprise for employment of the disabled in Republika Srpska, and is certainly the enterprise with the highest number of employed persons with disabilities in the entity (according to the Fund's records).

As the most promising enterprise for employment of the disabled in Republika Srpska, Patriot was offered an opportunity for cooperation with the Social Inclusion Foundation in Bosnia and Herzegovina, through the implementation of a 50,000 KM project entitled 'Maintenance of Green Spaces'. The project envisaged the employment of five new employees, and funds have been earmarked for the procurement of basic working tools. The project's implementation period is 1 July-31 December 2013.

This form of cooperation, i.e. funding of an enterprise, is significant, because the procurement of necessary equipment offers the opportunity to employ an increased number of full-time employees. In this way, in order to maintain as well as increase employment levels, the enterprise has received financial support from the local community, the Fund for Professional Rehabilitation and Employment of the Disabled, and the Social Inclusion Foundation in Bosnia and Herzegovina, which has its headquarters in Sarajevo.

Possibilities for the Improvement of Institutional Mechanisms and Solutions for Employment and Self-Employment of PwDs in Republika Srpska

Every decision should be preceded by thorough analysis. Persons with disabilities should receive appropriate education for his/her business idea, which must itself be sound, justified and quantifiable. Most business ideas aimed solely to attract the Fund's support, in expectation that it would prove sufficient to survive in the market, proved to be deficient. The incentive funds disbursed by the Fund should be used as enhancement to ensure competitiveness in the market.

The Fund accumulates resources from special contributions, which are used to fund the employment and self-employment of persons with disabilities. The level of cash incentives, as the initial funds for disbursement to employers and persons with disabilities, is determined on the basis of the level of actual inflows. In the past period, the average cash incentive has been around 2,500 KM, which cannot fully cover the procurement of necessary equipment. Still, since these are grant funds, this amount is not insignificant. An increased level of financial discipline is required to ensure that all employers execute their legal obligations. Cooperation between the Fund and the Republika Srpska Tax Administration, which is in charge of monitoring payments of the special contribution, is routine.

The expression 'information is capital' could certainly apply in our case. Inadequate informing of employers about the options provided by the Law on Professional Rehabilitation, Training and Employment of the Disabled is degrading for persons with disabilities in Republika Srpska. On several occasions, the Fund has held round table sessions in numerous municipalities across Republika Srpska seeking to inform both employers and the disabled. Employers were informed about these events through the local media, employers' associations and direct invitations, although interest was very frequently devastatingly low. Some of the legally mandatory obligations of employers were published in cooperation with the 'Finrar' trade journal, published by the Republika Srpska Association of Accountants and Auditors.

Better access to information remains key. We believe that the greatest effect is achieved when persons with disabilities are aware of the possibilities offered to them by this Law. These persons can be adequately informed through their own associations or federations.

The cooperation of the non-governmental sector with ultimate beneficiaries – persons with disabilities – proved to be a highly significant motivation for such persons. In the procedure of procurement of equipment through projects, the information given to these persons about the refunds provided by the Fund was sufficient, as it permitted them to continue their commercial activities.

Progress in employment of persons with disabilities is reflected in the awareness of foreign investors. When presenting the economic potential of Republika Srpska, incentives that stimulate employers to employ disabled persons should certainly be included.

The Fund has financed the development of the 'Jobs Catalogue for Persons with Disabilities', which was prepared with the assistance of the following institutions:

- the Coordination Board of Organizations of the Disabled of Republika Srpska;
- the Fund for Professional Rehabilitation and Employment of the Disabled of Republika Srpska;

- the Government of Republika Srpska Ministry of Labor, War Veterans and Disabled Persons' Protection;
- federations of employers' associations of Republika Srpska.

The catalogue presents the jobs that persons with disabilities may perform in the following 14 sectors:

1. Mechanical engineering and metal processing
2. Construction
3. Forestry and wood processing
4. Electrical engineering
5. Textile and leather industry work
6. Health care
7. Trade
8. Catering and tourism
9. Cosmetics
10. Administrative jobs
11. Agriculture and food processing
12. Graphics services
13. Trades
14. Other sectors

Within each of the above sectors, jobs are listed together with job descriptions and types of disabilities for persons eligible for the specific job. The catalogue may serve disabled persons as a set of guidelines for sectors in which they may work, as well as assist employers to include in their job classifications jobs that such persons are eligible for. The catalogue is available through all institutions that participated in its development.

Conclusions and Policy Improvement Recommendations for Republika Srpska

Lack of information constitutes a crucial problem. It is necessary to inform persons with disabilities as extensively as possible about the rights and opportunities offered to them by the Law on Professional Rehabilitation. All information should flow through associations to individual persons with disabilities.

To date, the Fund has successfully balanced its revenues and expenditures. The increasing number of beneficiaries of the contribution refund right illustrates the need to amend the existing legal regulation. This would entail an increase in the rate of the special contribution for those employers who do not meet the established quota for employing persons with disabilities (one person with disability per 16 employees), in order to secure increased funding proportional to needs. The Ministry of Labor, War Veterans and Disabled Persons' Protection has been informed about the proposed changes, and it is expected that this topic will be addressed in the near future.

Increased financial discipline is exercised by the Republika Srpska Tax Administration to enforce implementation of this legal provision by employers who fail to pay the special contribution. Increased monitoring is also required.

A more intensive cooperation of the non-governmental sector with the Fund may contribute to increased employment of persons with disabilities.

Attraction of foreign investors would also constitute a significant solution for the employment of persons with disabilities.

Employers need to abandon their prejudices and be made aware of the work potential of persons with disabilities. They should consider the incentives introduced by this Law, and understand the link it provides to improved market competitiveness, which would contribute to the increased employment of persons with disabilities.

Sources:

- Republika Srpska Law on Professional Rehabilitation, Training and Employment of Disabled Persons, RS Official Gazette no. 37/12;
- Data Base of the Republika Srpska Fund for Professional Rehabilitation, Training and Employment of Disabled Persons;
- Jobs Catalogue for Persons with Disabilities, Banja Luka 2012, published by KOOIRS, Ministry of Labour and Veteran Protection of Republika Srpska and Union of Employers' Associations of Republika Srpka
- <http://www.zzzrs.net/index.php/statistika/>

About the authors

Elvira BEŠLIJA was born on 6 July 1953 in Sarajevo. In addition to her employment with the Federation of Paraplegics and Poliomyelitis Patients of the Federation of Bosnia and Herzegovina, she was one of the founders of the Union of Paraplegics and Poliomyelitis Patients of Bosnia and Herzegovina (established by the Bosnia and Herzegovina Council of Ministers), and is Chairperson of the Council of the Organizations of Persons with Disabilities of the Federation of Bosnia and Herzegovina. She has also been a member of the Federation of Bosnia and Herzegovina Advisory Council for the 'Support to the Development of the Policy in the Area of Disability in Bosnia and Herzegovina' since 2006, and was employed as a consultant for the preparation of the 'Strategy for Equalization of Opportunities for Persons with Disabilities in the Federation of Bosnia and Herzegovina'. She was employed as a trainer in the implementation of the Action Plan for Implementation of the Strategy in the Area of Disability, for the segment 'Census of the Needs of Persons with Disabilities and Existing Community Resources', in which her direct involvement facilitated the adoption of an amendment to the health insurance regulation covering human-assisted reproduction, with regard to paraplegics (the discriminating provision was abolished). She was editor of the following publications by the Federation of Bosnia and Herzegovina Federation of Paraplegics and Poliomyelitis Patients: 'Small Business and Persons with Disabilities', by O. Delibegović, 2003; 'Paraplegia' by Dr. M. Matardžija, 2006; and 'A Guide through the Files of the «Help us today, and perhaps yourself tomorrow» Campaign', by O. Delibegović, 2008. She is also author/co-author of numerous reports, studies and interpretations in the fields of: health care and health insurance law; entitlements to orthopedic and other aids; architectural barriers; transportation; and interpretation of the situation and options of persons with disabilities and their organizations in the Federation. Ms. Bešlija is also a member of the Gender Group, which highlights the issues and problems affecting women with disabilities.

Dubravka HALEPOVIĆ was born on 18 April 1957, and is a graduate of the Sarajevo Law School. Between November 1997 and January 1999 she managed two projects related to the tax system and copyright, and cooperated with several law firms in Sarajevo with the provision of legal consulting services. Since February 1999 she has performed legal and administrative tasks in the NGO 'Initiative for Better and Humane Inclusion' (IBHI). During the implementation of the 'Policy in the Area of Disability' project, which focused on persons with disabilities and creation of the policy on disability (2005-2009), she provided legal and administrative support.

As a representative of IBHI, Ms. Halepović participated in the working group for the drafting of the Law on Gender Equality within the GEEP Project (2000-2004), within which she wrote the case study 'Gender Awareness – Best Practices in the Netherlands'. According to the needs of the LSE project 'Supporting the Development of Poverty Reduction Policies in Bosnia and Herzegovina' she prepared a legal analysis of the legislation of Bosnia and Herzegovina covering poverty issues. In the period of 2009-2013, Ms. Halepović prepared studies of the legal framework relating to social inclusion for the non-governmental sector ('The Role of Civil Society in Strengthening Social Inclusion', 'Framework of the NGO Sector', the Law on Associations and Foundations [Federation of Bosnia and Herzegovina, Republika Srpska, and Bosnia and Herzegovina] and legal forms for the establishment of a social inclusion organization). She also participated in the drafting of the Framework Standards for Therapeutic Communities (Communes), and is currently an associate in the project 'Development, Testing and Implementation

of new Methodology(ies) for Targeting Non-Contributory Cash Benefits in Bosnia and Herzegovina'. In 2012, she prepared an analysis of legal aspects in the 'Report on the Assessment of Social Entrepreneurship in Bosnia and Herzegovina' for the Social Inclusion Foundation in Bosnia and Herzegovina.

Dobrica JONJIĆ was born in Sarajevo on 31 December 1962. He completed his elementary and secondary education in Zenica, and graduated from the Sarajevo Faculty of Philosophy, Department of Philosophy and Sociology, in 1987. He is currently married with two children. Mr. Jonjić began his professional career in 1989, and following the war he chose to make the field of social protection and protection of veterans' rights his professional focus. In the 2001-2003 period, as Deputy Minister in the Federation Ministry for Veterans' Affairs, he worked on the drafting of the single Law on Veterans' Protection. Since 2007 he has worked in the Federation Ministry of Labor and Social Policy as Assistant Minister in the Sector for the Protection of Persons with Disabilities and Civilian Victims of War. He is one of the authors of key strategic documents in the domain of disability in the Federation of Bosnia and Herzegovina.

Ljubo LEPIR was born in 1963. He completed his secondary education in Srbac and graduated in sociology from the Faculty of Philosophy in Zagreb. He received his Master's degree from the Sarajevo Faculty of Political Sciences in 2009, and defended his doctoral thesis in the area of social policy in 2013 at the Faculty of Political Science in Banja Luka. Before the war, he cooperated with various institutions in Zagreb on the implementation of sociological and related studies. Between 2000 and 2004 he worked at the Center for Social Work as Senior Associate for Analysis and Research. From 2004-2006 he performed the same duties in the Public Child Care Fund. Since 2006, he has been employed in the Republika Srpska Ministry of Health and Social Protection as Assistant Minister for Social, Family and Child Protection. In his previous work he cooperated on the implementation of several projects in various domains of social protection. Dr. Lepir has conducted research in the domain of disability, child protection, protection of the elderly, demographic trends and other domains of social protection. He is the author of several scientific papers on these subjects, and has been published in professional and scholarly journals, collections of papers, and monographies. He has participated in international events and conferences on social protection, and is a member of the Republika Srpska Association of Social Sector Professionals. He has delivered lectures on social protection topics at various universities in Bosnia and Herzegovina, and between 2006 and 2009 coordinated the 'Support to the Development of the Policy in the Area of Disability' project (POI) for Republika Srpska. He also served as Coordinator for the development of the 'Strategy for Advancement of the Social Position of Persons with Disabilities in Republika Srpska'. Dr. Lepir is a member of the Council for Persons with Disabilities at the state level of Bosnia and Herzegovina, and chairs the government's Interagency Body for Support to Persons with Disabilities in Republika Srpska.

Ivica MARINOVIĆ was born on 26 March 1960 in Tuzla, where he completed his elementary and secondary education. He graduated from the Industrial Engineering Department of the Mechanical Engineering Faculty in Sarajevo, in early 1983, and went on to earn his Master of Technical Sciences degree in mechanical engineering in 2003, and subsequently his Ph.D in Technical Sciences on 13 September 2013. In his career, Dr. Ivica Marinović has held a series of high cantonal, entity and state-level posts. From 1989-1993, he worked as Assistant Lecturer at the Faculty of Electrical and Mechanical Engineering in Tuzla. From 1993 to 1994 he held the post of Chief of the Regional Headquarters of Civil Defense, and was a Member of the Presidency of the Tuzla District. From 1995-2001, he served several terms as Minister without

a Portfolio, and Deputy Caucus Chairman in the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina. From 2001 to 2003 he was the Chairman of the Caucus in the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina. Between 2003 and 2007 he held the positions of Deputy Minister for Human Rights and Refugees in the Bosnia and Herzegovina Council of Ministers, and Chairman of the State Commission for Refugees and Displaced Persons, and from 2008 to 2011 he was Advisor to the Minister of Labor and Social Policy in the Government of the Federation of Bosnia and Herzegovina. Since 2011, Dr. Ivica Marinović has served as the Manager of the Fund for Professional Rehabilitation and Employment of Persons with Disabilities.

Sandra TRKULJA was born on 17 June 1976 in Bosanska Dubica. She graduated from the School of Economics at the 'Apeiron' University in Banja Luka, with a degree in economics, and in 2012 she enrolled in the II Study Cycle to pursue graduate studies. Since 2005 she has worked in the Republika Srpska Fund for Professional Rehabilitation and Employment of Invalids, where she currently holds the post of Head of Accounting Division. Within the Fund, she was involved with dissemination of information to employers, enterprises and public institutions about the establishment of the Fund and the implementation of the Law on Professional Rehabilitation, Training and Employment of Invalids (first law, RS Official Gazette no. 98/09). To ensure broadest possible dissemination, she worked proactively with employers, the Tax Administration and the line Ministry of Labor, War Veterans' and Disabled Persons' Protection. She is a member of the Commission for Funding and Co-funding of Programs of the Fund's Board of Directors, which assesses applications and proposes the mode of implementation and funding levels for each project. Ms. Trkulja has cooperated on projects implemented by non-governmental organizations Mercy Corps and LSN, which concerned the economic and social empowerment of persons with disabilities, and which were implemented in 2007-2009. She is also a licenced member of the Republika Srpska Association of Accountants and Auditors.

List of Acronyms

BD	Brčko District
BiH	Bosnia and Herzegovina
EU	European Union
F BiH	Federation of Bosnia and Herzegovina
SIF in BiH	Social Inclusion Foundation in Bosnia and Herzegovina
IBHI	Initiative for Better and Humane Inclusion
KM	convertible mark
LSE	London School of Economics
LSN	Landmine Survivors Network
NGO	non-governmental organization
CSO	civil society organization
PwD	person with disabilities
PAD	Policy in the Area of Disability
RS	Republika Srpska
UN	United Nations