

Employment of Persons with Disabilities in Kosovo*¹²

1. Labour market in Kosovo* and the position of Persons with Disabilities

For the last few decades, Kosovo* has been among the weakest economies in the Western Balkans, which has particularly reflected on vulnerable position of various categories of unemployed, including Persons with Disabilities (PWDs). Simultaneously, the Kosovo* labour market has faced common challenges reported in other economies of the region arisen by structural problems, such as: low economic development, low economic activity, high unemployment, lack of new investments followed by insufficient new jobs creation and general lack of jobs. These problems have remained even with the real GDP growth rate of over 4% since 2015. As a consequence, the unemployment rate in Kosovo* has stayed the highest in the region, at around 30%³.

The labour market in Kosovo* is also characterised by the lowest participation rate (38.7% in 2017) among the WB economies, whereas PWDs seem particularly reluctant to look for jobs⁴. Low motivation of PWDs to compete on the open labour market coincides with strong prejudices from the part of employers as well as ineffective public policies directed at the employment of PWDs. In addition, PWDs restrain from competing on the highly competitive labour market in Kosovo* due to low self-esteem, perceived overall low possibilities, but also due to social support services being primarily based on charities and social benefits coupled with a severe lack of more inclusive public policies and active labour market programmes in particular.

In comparison with other five economies of the WB region, the position of PWDs seems to be particularly weak. In accordance with the Human Rights Strategy for Kosovo* 2016-2022⁵ PWDs, along with children, women, elderly and a few other have been acknowledged the status of vulnerable group. Also, the National Strategy on the Rights of Persons with Disabilities in Kosovo* 2013-2023⁶ sets *functional and genuine welfare and social security system as well as the provision of equal opportunities for the employment of persons with disabilities* among envisaged strategic goals. However, the lack of any relevant data on this particular group leaves it quite invisible in the society.

¹ This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence

² Prepared by Galjina Ognjanov, independent expert appointed by RCC

³ Vulnerabilities Slow Growth, Western Balkans Regular Economic Report No.13, Spring 2018, World Bank Group, available at: <http://www.worldbank.org/en/region/eca/publication/western-balkans-regular-economic-report>

⁴ Shatri, Y., Salko, D, (2016). Employment Possibilities for Persons with Disabilities in the Private Sector (Kosovo* Case), European Scientific Journal, available at: <https://ejournal.org/index.php/esj/article/view/8128>

⁵ Human Rights Strategy for Kosovo* 2016-2022, available at: http://equalrightsforallcoalition.com/wp-content/uploads/2016/11/HR_Strategy_ENG.pdf

⁶ National Strategy on the Rights of Persons with Disabilities in Kosovo* 2013-2023, available at: https://childhub.org/en/system/tdf/library/attachments/national_strategy_on_the_rights_of_persons_with_disabilities_in_the_republic_of_kosovo_2013-2023_2.pdf?file=1&type=node&id=23564

The number of PWDs in Kosovo* may only be judged based upon general definition of WHO, according to which about 15% of the world population belongs to this group. It was for the first time in the latest Census of 2011 that the question referring to disability was applied in accordance with the WG methodology. The results showed 93,000 persons (5.3% overall population covered by Census 2011) who claimed at least one long-lasting disability. However, this figure as well as the figure of 260,974 PWDs, should the WHO definition be applied to the overall population reported in Census 2011, may not be considered representative due to the fact that it covered mainly the Albanian population, while the Serbian population restrained from participation due to political reasons⁷.

Like in the other countries of the region, the unemployment, employment and participation rates of PWDs have not been officially tracked. In Kosovo* however, even the number of registered PWDs has not been kept by the employment service on the national level. An exception to the rule is the available data on registered unemployed PWDs in Kosovska Mitrovica branch office of NES.⁸ The data however refer only to a few municipalities in which ethnic Serbs are the majority population and where the employment policy directed at PWDs is applied based on Kosovo* legislation and the legislation of the Republic of Serbia.⁹

Data on the number of PWDs as well as other indicators of their position, while unsystematic and hardly comparable, may be available from Centres for Social Work and a few relevant associations, including Handikos, Down Syndrome Kosova, Autism association, Association of blind persons, Association of deaf and dumb persons, Center for Basic Rehabilitation, Organizations of Persons with Disabilities, World of Angels, Future without Fears and others.

Against such a background, it is obvious that the position of PWDs in the Kosovo* labour market is extremely weak, thus calling for urgent implementation of policy measures. The regulatory framework with regard to employment of PWDs may seem properly developed to a certain point, but its implementation is rather poor. Therefore, Kosovo* policy makers may wish to take into consideration the success factors from the host economy for this peer review and other peer economies in the Western Balkans with regard to policy development and implementation. They should particularly focus on the success factors with regard to development and implementation of evaluation and monitoring mechanism.

2. Assessment of regulatory framework with regard to employment of PWDs

The legal framework and strategic documents with regard to employment of PWDs have been aligned with international documents, such as the UN Convention on the Rights of PWDs from 2006 and the EU Charter on the Fundamental Human Rights from 2000. Official ratification of the UN Convention has been postponed until Kosovo* is granted full membership in the UN. However, given its goal of European integration along other WB economies, Kosovo* agreed to

⁷ Municipalities with Serbian majority excluded from Census 2011 include Mitrovica north, Zubin Potok, Zvečan, Leposavić, Štrpce, Gračanica, Klokot, Parteš, Rani Lug i Novo Brdo.

⁸ Kosovska Mitrovica branch office represents an organizational unit of the National Employment Service of Serbia (NES). It serves population living in the northern part of Kosovo*, particularly Mitrovica north, inhabited with the majority of ethnic Serbs.

⁹ Milovanović, M., Lončar, G., Position of Persons with Disabilities in Serbian Community in Kosovo*, Center for Society Orientation, available at:
http://www.easpd.eu/sites/default/files/sites/default/files/position_of_pwds_in_serbian_community_in_kosovo.pdf

align its legal acts with the international standards built in the EU regulatory framework, thus accepting the main definitions and regulations of the UN Convention as well. Discrimination on grounds of disability is banned by Kosovo* Constitution¹⁰ under article 24 (charter Fundamental Rights and Freedoms) and further regulated by The Law on Protection from Discrimination No. 05/L-021¹¹. Local legal framework specifically related with PWDs human rights as well as the right to employment includes¹²:

1. The Law on Disability Pensions, No. 2003/23¹³ which assures social protection and receipt of social benefits for persons with disabilities (e.g. pensions for people who are unable to work on grounds of disability and benefits to cover their transportation costs);
2. The Law on Material Support for Families of Children with Permanent Disabilities, No. 03/L-22¹⁴ which similarly to the above sets ground for the implementation of social support through passive measure rather than promoting social inclusion of children with disabilities;
3. The Law on Vocational Ability, Rehabilitation and Employment of Persons with Disabilities, No. 03/L-019¹⁵ and Law no. 05/L-078¹⁶ setting legal grounds for the implementation of public policy directed at the promotion of employment of PWDs on the open labour market, through imposing the obligation to employ PWDs as well as implementation of various active labour market programs aimed at improvement of employability and enhancement of employment of PWDs.

In addition, a few by-laws and regulations have been drafted to support the implementation of provisions built in the above mentioned laws as well as other special laws regulating various aspects of rights of PWDs. On the other hand, in the Mitrovica north and a few other municipalities where ethnic Serbs are the majority population, the Law on Professional Rehabilitation and Employment of PWDs of the Republic of Serbia¹⁷ and specific by-laws have also been implemented, particularly in regard with provision of active labour market programmes through the National Employment Service of the Republic of Serbia, branch office in Kosovska Mitrovica.

As regards the strategic framework related to the employment of PWDs, it includes the Human Rights Strategy for Kosovo* 2016-2022, the National Strategy on the Rights of Persons with Disabilities in Kosovo* 2013-2023 and sectoral strategy of the Ministry of Labour and Social Welfare 2018-2022. It is generally believed that Kosovo* regulatory framework with regard to PWDs needs to be further enforced through the development of a monitoring mechanism, which would assure its better implementation. Various studies show that The Law on Disability Pensions, No. 2003/23 may be considered as the best example of provision of rights to PWDs,

¹⁰ Constitution, available at: <http://www.kryeministri-ks.net/repository/docs/Constitution1Kosovo.pdf>

¹¹ Available in English at: <https://www.kuvendikosoves.org/common/docs/ligjet/05-L-021%20a.pdf>

¹² According to the document cited in previous footnote.

¹³ Available in English at: https://www.kuvendikosoves.org/common/docs/ligjet/2003_23_en.pdf

¹⁴ Available in Albanian and Serbian at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2582> and http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L022_sr.pdf

¹⁵ Available in English at: http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L-019_en.pdf

¹⁶ Available in English at: <https://www.kuvendikosoves.org/common/docs/ligjet/05-L-078%20a.pdf>

¹⁷ The Law on professional rehabilitation and employment of persons with disabilities, Official Gazette of the Republic of Serbia No. 36/2009 and 32/13.

although it is mainly based on passive measures¹⁸. On the other hand, The Law on Vocational Ability, Rehabilitation and Employment of Persons with Disabilities, No. 03/L-019¹⁹ and Law no. 05/L-078 had little effect on the employment of PWDs, to the point that local employers are not even informed on the set obligation to employ PWDs.²⁰

3. Assessment of employment policy and ALMPs for PWDs

Employment policy for PWDs in Kosovo* is similar to the employment policy implemented in the Host Economy and other economies of the WB region. The assessment of working capacities as one of the main instruments of the employment policy for PWDs has also been built in the Law on Vocational Ability, Rehabilitation and Employment of Persons with Disabilities, No. 03/L-019²¹ and Law no. 05/L-078. It envisages that the decrease of capacity to work may be determined, upon a claim initiated by a PWD, by a professional commission in Competent Regional Office of KPAD in the first level and Department of the Ministry of Labour and Social Welfare in the second level (Article 6).

The Fund for professional rehabilitation, as the other important instrument of employment policy for PWDs has not been established to support employment of PWDs in the open labour market. However, the employment policy has envisaged the obligation for employers to employ one employed PWD per each 50 employees. For employers failing to comply with the obligation, the Law envisages a penalty in the amount of 1% of minimum wage as a monthly contribution for incitement of employment of PWDs to be paid to Kosovo* budget.

All four pillars of employment policy for PWDs in the Host Economy (i.e. professional rehabilitation, active labour market programmes (ALMPs), enhancement of employment of PWDs on open labour market and special forms of employment of PWDs) are to certain extent built in the Kosovo* employment policy, yet their implementation has not been assured through special by-laws, regulations and/or monitoring mechanisms. The Centre for Professional Rehabilitation is envisaged within the Ministry and professional rehabilitation of PWDs may also be performed by other institutions in accordance with the law. Yet, the evidence on such activities is not available. While no specific ALMPs have been created for this category of unemployed, they are included in ALMPs provided to all other categories of unemployed, such as public works, wage subsidies, on-the-job trainings, internships, self-employment and vocational training. Employment of PWDs in the open market is supported through the imposed obligation to employ a PWDs per each 50 employees by employers in public, private and NGO sectors. Yet, the quota-levy scheme offering other possibilities to employers to comply with the obligation to employ PWDs while contributing to their professional rehabilitation and employment has not been introduced. The forth pillar - employment under special conditions -

¹⁸ Milovanović, M., Lončar, G., Position of Persons with Disabilities in Serbian Community in Kosovo*, Center for Society Orientation, available at:

http://www.easpd.eu/sites/default/files/sites/default/files/position_of_pwds_in_serbian_community_in_kosovo.pdf

¹⁹ Available in English at: http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L-019_en.pdf

²⁰ Shatri, Y., Salko, D, (2016). Employment Possibilities for Persons with Disabilities in the Private Sector (Kosovo Case), European Scientific Journal, available at: <https://eujournal.org/index.php/esj/article/view/8128>

²¹ Available in English at: http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L-019_en.pdf

has been envisaged by the Law, through centres for Professional Rehabilitation, sheltered workshops and working centres, as well as through self-employment and employment in family farms, but the evidence on the implementation of this policy measure and its effects is not available.

4. Assessment of success factors and transferability

The success factors listed in the Host Economy Case Study include 1) recognition of rights to work and employment and assuring equal opportunities for PWDs based on recognized status of PWDs and assessment of working capacities, 2) development of four pillars of employment policy and 3) proper implementation of ALMPs for PWDs through NES. As discussed above, the legal framework with regard to PWDs in Kosovo* has been developed on the grounds of recognised human rights including the right to work and employment. The assessment of working capacities and employment policy measures have been incorporated in the special law assuring provision of equal rights of PWDs on the labour market. However, a lack of other regulatory mechanisms, including strategic documents and action plans as well as specific regulations and by-laws has resulted in weak implementation of policies directed at enhancement of employment of PWDs. Therefore, policy makers should primarily focus on the development of relevant mechanisms to allow broader implementation of developed policies such as in the first place complying with the obligation to employ PWDs or collecting penalties paid by employers who fail to do so. Additionally, introducing quota-levy scheme in accordance with the experiences shown in the Host Economy may also lead to improved effects of the set obligation. ALMPs specially created to meet the needs of PWDs as well as better targeting of this groups is of crucial importance for being one of the most important motivating factors that should lead to increased participation on the labour market. Yet, the implementation of such measures would need to be closely monitored and evaluated by the responsible bodies such are the Ministry in charge and the national employment offices. In that regard, specific targets need to be set annually and data collection has to be substantially improved to allow tracking of registered unemployed PWDs, those participating in ALMPs, PWDs employed on the open market, self-employed and engaged through special forms of employment. Systematic collection of such data makes the most important precondition for evaluation of the effects of employment policy measures and programmes directed at PWDs and its successful implementation.

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