



**REPUBLIC OF CROATIA**  
**Ombudswoman for persons with disabilities**

Number: POSI-1.16.3.-335/12-01-02  
Zagreb, 30 July 2012

Office of the United Nations High Commissioner for Human Rights

**Subject: Human Rights of Persons with Disabilities – Human Rights Council Resolution 19/11**

Dear Sir/Madam,

As a part of its specialized mandate involving the rights of persons with disabilities, Disability Ombudsman's Office has, since it was established in July 2008, been closely involved in contributing to and proposing amendments and modifications to legal documents regulating employment of persons with disabilities as well as monitoring their implementation in practice. The Office also receives and deals with individual complaints on violations of rights of persons with disabilities and takes part in international activities connected with, among others, the area of employment. Apart from the insights gained through the work of the Disability Ombudsman's Office and presented in Annual report on the work of the office in 2011 and in line with the principle of close consultation and cooperation with associations of persons with disabilities, the information provided under respective questions below reflect the experiences of organizations of persons with disabilities.

The Office forwarded the questions to all Croatian federations of associations of persons with disabilities and some of their responses will be quoted below. The Office also closely cooperates with the relevant institutions working in the field of employment of persons with disabilities: Croatian Employment service and Fund for professional rehabilitation and employment of persons with disabilities and the data collected through the work of these institutions will also be presented below.

1. **The situation of persons with disabilities in the field of employment, including relevant data and statistics. Do you have information on persons with disabilities working in the informal sector?**

Croatian Employment Service (CES) is a public institution which deals with employment mediation. Among other activities, it decides on the way of realisation of the right to professional rehabilitation of unemployed persons with disabilities.

CES emphasise that their guiding principle in the course of counselling and informing persons with disabilities on professional opportunities is individual approach. To this end, advisors specialised on mediation in employment of persons with disabilities have been designated at each branch office of CES and educated on disability employment issues. (CRPD, Art. 27, para 1, subsection e).

CES also gathers and processes data on the number of unemployed persons with disabilities it has in its records as well those of them who have subsequently gained employment. The most recent records by CES state that in on 30 June 2012 there were **5,914 unemployed persons with disabilities** which is 2 % of the total number of unemployed (according to Croatian register of persons with disabilities, the percentage of persons with disabilities in the total population is around 12 %). In the first half of 2012, 811 persons with disabilities were employed (0, 7 % of the total number of employed). On 31 December 2011 there were 5,992 unemployed persons with disabilities which was less than in 2009 and 2010.

In 2011 the greatest number of employed persons with disabilities were persons with intellectual difficulties (582 or 39, 73%), persons with physical impairments (272 or 18, 57%), and then persons with multiple impairments (267 or 18, 23%).

When looking at the total number of unemployed persons with disabilities who were employed in the period from 2007 to 2011, it can be concluded that in the years characterised by the economic crisis there was a negative trend in employment of persons with disabilities. That decline in the number of employed persons with disabilities which had previously been recorded by CES was stopped in 2011 when 1 465 persons with disabilities were employed.

CES explains this increase in the number of employed persons with disabilities to be a result of government measures on promoting employment of persons with disabilities as well as results of active employment policies.

**Table 1 Number of unemployed and employed persons with disabilities from the records of the Croatian Employment Service for the period 2007 to 2011 (Source: Croatian Employment Service)**

| Year | Employed during the year | Unemployed 31 December | Employment Index | Unemployment index |
|------|--------------------------|------------------------|------------------|--------------------|
| 2007 | 1.423                    | 5.703                  | 117,5            | 98,5               |
| 2008 | 1.267                    | 5.579                  | 89,0             | 97,8               |
| 2009 | 1.028                    | 6.215                  | 81,1             | 111,4              |
| 2010 | 1.080                    | 6.255                  | 105,1            | 100,6              |
| 2011 | 1.465                    | 5.992                  | 135,6            | 95,8               |

CES informed us that within the framework of active employment policy measures for co-financing of employment, a part of these measures is directed at fostering integration of persons with disabilities into the labour market. Apart from co-financing employment, CES supports employment through measures of co-financing and financing education aimed for improving competencies of unemployed persons in line with the current and forecasted demands on the labour market with the aim of increasing their employability and work mobility. Persons with disabilities were to a significant extent involved in one of the measures of active employment policy through public works. While doing socially valuable work, their social inclusion is promoted and social consequences of unemployment mitigated. The public works are organised in cooperation of units of local self-government and institutions they own and NGOs.

In accordance with the Act on professional rehabilitation and employment of persons with disabilities and implementations of activities from National strategy for equalization of opportunities for persons with disabilities from 2007 to 2015, in 2011, 748 persons with disabilities were involved in vocational informing activities carried out by Croatian Employment Service and 997 persons with disabilities were involved in vocational counselling activities, either individually or through workshops.

**DATA ON INCENTIVES FOR EMPLOYMENT AND RETAINING IN EMPLOYMENT OF PERSONS WITH DISABILITIES PAID OUT BY THE FUND FOR PROFESSIONAL REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES IN 2010**

According to the Annual report of the Fund for 2010 (the most recent available source), the total number of processed requests for paying various incentives in accordance with the *Decision on the way of realizing incentives when employing persons with disabilities* was **1, 971**.

**Table 2 Type of incentives paid to employers and the number of requests received and processed by the Fund**

| Type of Incentive  | Number of requests received and processed by the Fund |
|--|---|
| Refund of contribution towards basic health insurance and contribution towards employment        | 1 159   |
| Co-financing of the decreased working efficiency   | 338   |
| Co-financing of the costs of personal assistant  | 384   |
| One-off payment for education of employed and unemployed persons with disabilities               | 76  |
| Adjustment of the work place   | 17  |
| Adjustment of working conditions   | 25  |
| Co-financing of a part of interest on loans for tools, machinery and equipment on which PwD work | 12  |
| Co-financing the costs of work therapists  | 76  |
| <b>TOTAL</b>   | <b>1 971</b>  |

The number of employers to whom incentives were paid out in 2010 was **420**.

The number of persons with disabilities for which incentives in 2010 were paid was **3 226** (**1 412** out of that number were women and **1 814** were men).

**Table 3 - DATA ON EMPLOYMENT OF PERSONS WITH DISABILITIES GATHERED BY SOME NATIONAL UMBRELLA ORGANISATIONS**

| Name of association  | Type of data source  | Data on the employment of persons with that particular impairment   |
|--|--|---|
| Croatian Union of Associations of Persons with Physical Impairment | Conducted interview on the number of persons with disabilities employed in their grassroots organizations (out of 77 grassroots organizations, 26 replied) | 10 out of 25 DPOs do not employ persons with disabilities, 16 employ a total of 50 persons with disabilities              |
| Croatian Association of the Deaf Blind                             | Internal records of the association on its members   | Less than 5 % of members are employed, most of the members are retired but younger members who actively seek jobs through |

|   |  |  |
|---|--|--|
|   |  | Croatian Employment Service have never had a chance to work (no numbers specified)   |
| Croatian Association of Paraplegic and Tetraplegic Persons  | Internal records of the association on its members                                 | 11 % of the members are employed, 50 % retired, 39 % unemployed  |
| Union of Association for multiple sclerosis of Croatia      | Statistics gathered by the association on its members                              | Total number of members: 2 497<br>Retired: 1, 534 (62 %)<br>Employed: full-time: 500 (20 %)<br>Employed: part-time: 19 (0.8%)<br>Unemployed registered with Croatian Employment Service: 124 (5 %)<br>Unemployed: 156 (6.4%)<br>Students: 33 (1.3 %)<br>Self-employed: 21 (0.8)<br>other |
| Croatian Union of Associations for Cerebral and Child Palsy | Conclusion reached by the Union based on the contacts with grassroot organisations | Less than 5 % of members are employed  |

## INFORMAL SECTOR

When it comes to employment in informal sector we were not quite sure how to understand that category and whether it refers to the forms of work such as volunteering. There is no data available on the number of persons with disabilities engaged in such activities even among associations of persons with disabilities although a significant number of persons with disabilities participates in the work of their associations. The only area that could be described as a kind of employment in informal sector is the work of persons under guardianship who do not have legal capacity and are as such unable to sign contracts of employment.

A certain number of these persons, thanks primarily to activities of associations working in the interest of persons with intellectual disabilities, work on the open market with companies that have opened themselves up to their employment through awareness raising activities of both the associations as well as Croatian Employment Service. However, since they cannot enter into contracts of any kind, they are subsequently not able to receive salary for their work. They do receive remuneration for the work by way of donations made by the companies that employ them to their associations who then reimburse them. In theory such persons could conclude contracts of employment with prior approval of their legal representatives, that is guardians. However, associations working in the interest of persons with intellectual difficulties and those gathering self-advocates pointed out that a significant obstacle to employment of persons with both intellectual and psycho-social disability that are placed under guardianship is the question

of liability for damage that could occur during work and since guardians would be liable for any such damage caused by their 'ward', they are in practice not ready to undertake such responsibility.

**Fund for professional rehabilitation and employment of persons with disabilities** submitted for the purposes of this questionnaire their partial data on persons with disabilities involved in paid working activities which could in their understanding be called informal sector. Since 2009 the Fund has co-financed the project *Determining criteria and models for co-financing the work of work centre by Fund for professional rehabilitation and employment of persons with disabilities*. Two Institutions, different legal subjects are involved in the project: NGO Association for Promotion of Inclusion and Institution for rehabilitation of disabled persons by professional rehabilitation and employment (URIHO).

**Table 4 shows total number of users of the work centre Inclusion and URIHO for the period from 1 July 2009 to 31 December 2011.**

| YEAR  | INCLUSION | URIHO | TOTAL |
|-------|-----------|-------|-------|
| 2009  | 30        | 20    | 50    |
| 2010  | 11        | 39    | 50    |
| 2011  | 4         | 41    | 45    |
| TOTAL | 45        | 98    | 145   |

The Fund also emphasized that Republic of Croatia at the moment has certain difficulties with regard to relevant data and statistics. This is primarily related to the fact that Croatian pension insurance agency registers only some types of disability when they are entering the system (only persons with disabilities that have been issued a decision on professional incapacity, disabled war veteran's status or beneficial pension insurance). Due to that, there is no accurate record of employed persons with disabilities.

2. **Has the legislative and policy framework of your country been developed in conformity with article 27 of the Convention on the Rights of Persons with Disabilities (CRPD) on work and employment? Can any gaps be identified in legislation and policies related to work and employment of persons with disabilities?**

All surveyed associations of persons with disabilities as well as the Disability Ombudsman's office agree that legislative and policy framework in Croatia has been aligned with Art. 27 of the CRPD and there are no gaps when it comes to the CRPD. However, the implementation of these provisions in practice did not contribute to a more visible increase in the employment of persons with disabilities, especially those with a more severe level of disability.

The most important legal document regulating employment of persons with disabilities in Croatia, the **Act on Professional Rehabilitation and Employment of Persons with Disabilities** was first adopted in 2003 and amended in 2005 (two years before the Convention was ratified by Croatia). This act provided a legal basis for ensuring that provisions in the CRPD Art. 27, para 1, subsection g), h) l), j) and k) are met.

It was based on the **National strategy of unified policy for persons with disabilities from 2003 to 2006** and envisaged the following measures and activities aimed at fostering employment of persons with disabilities: establishing of **Fund for professional rehabilitation and employment of persons with disabilities**, introducing quota system (obligation on state and public bodies and companies to employ a certain number of persons with disabilities in relation to the total number of employees), tax deductions and incentives for both public and private employers of persons with disabilities, one off payments, money for adjustment of the work place and working conditions, more favourable loans when buying machinery, equipment and tools required for employing persons with disabilities, monetary compensation for reduced working efficiency or co-financing of a salary for a personal (work) assistant to the person with disability. The Act envisaged establishing regional centres for professional rehabilitation but this has not been realised yet.

All the stakeholders agree that the implementation of the Act on professional rehabilitation and employment of persons with disabilities in practice showed numerous deficiencies and proved certain provision lacked sufficient clarity. Therefore a working group has been set up to come up with a new proposal of the Act which has been envisaged for 2013. Other acts and regulations dealing with professional rehabilitation and employment of persons with disabilities will also have to be amended.

The associations of persons with disabilities warn it might be difficult to realize measures aimed at increasing employment of PwDs due to severe economic crisis and subsequent restrictions in the state budget.

**The Anti-discrimination Act** which entered into force on 1 January 2009 prohibits discrimination on the grounds of disability and health and specifically mentions denial of reasonable accommodation as a form of discrimination in all areas and not only work and employment. However, more than three years after the Anti-discrimination Act entered into force, according to the knowledge of Disability Ombudsman's Office, there have been no court cases involving this form of discrimination. (CRPD, Art. 27, para 1, subsection a) and b).

Among other relevant national strategic documents there are also **National Strategy for Equalization of opportunities for Persons with Disabilities from 2007 to 2015** and **National Plan for fostering employment of vulnerable groups 2011 to 2011**. In the course of pre-accession negotiations to EU, Croatia signed **Joint Inclusion Memorandum (JIM)** and **Joint Assessment of the Employment Policy Priorities of the Republic of Croatia**.

JIM regulates measures which are a part of a broader framework of EU social policy. It also additionally defines obligations of the Republic of Croatia in bolstering employment of certain groups at risk of social exclusion, among others, persons with disabilities as well.

### **GAPS IN LEGISLATION AND POLICIES**

The area of professional rehabilitation is not sufficiently regulated which in practice results in the fact that persons with disabilities rather choose the option of retirement than reintegration into the world of work. There are also no legal provisions envisaging different models of employment and flexible working models.

Complaints dealt with by the Disability ombudsman's Office point to the conclusion that insufficient clarity of legal provisions regulating the right of the worker to professional rehabilitation in practice results in dismissal of such workers with the explanation that the employer does not have a working place suitable for the worker who has undergone requalification.

- 3. Implementation of national legislation and policies, in particular related to progress made and obstacles preventing persons with disabilities, or specific groups of persons with disabilities (for example young persons with disabilities, women with disabilities or persons with intellectual/psycho-social disabilities), from enjoying the right to work on an equal basis with others.**

### **DIFFICULTIES IN IMPLEMENTATION OF THE ACT ON PROFESSIONAL REHABILITATION AND EMPLOYMENT OF PwDs**

Despite the ratification of the Convention on the rights of persons with disabilities in 2007, and other international and national documents and strategies, both the Disability Ombudsman's Office and DPOs agree that only a small percentage of persons with disabilities work and even fewer of them work on the open labour market.

One of the main reasons for this fact lies in inadequate education, that is educating persons with disabilities for profiles which do not follow demands of the labour market. Loss of social welfare disability benefits which occurs if a person with disability gets employed is particularly discouraging for their employment and leads to their passivisation.

Measures of positive action have been prescribed by law but with unclear stipulations which prevents their implementation in practice.

Some of the issues identified by the Disability Ombudsman's Office related to the implementation of the Act on professional rehabilitation and employment of persons with disabilities include the following:

- 1) the Act envisages fostering employment of persons with disabilities through introduction of the institute of work assistant but this institute has not been regulated yet
- 2) Quota system has been introduced but in practice there are numerous unclear provisions which prevent the system from significantly contributing to employment of persons with disabilities: a) the Act fails to answer the question of who persons with



disabilities are and how they can prove that status to benefit from the protection envisaged by the Act, b) the definition of disability is not in line with the social model of disability since it heavily relies on the medical model and percentages of physical impairment which fail to take into consideration socio-economic status, individual capacities of an individual and other aspect of one's functioning and assessment of support required for realisation of remaining potentials; c) there is no adequate monitoring of implementation of quota nor are penalties for non-compliance sufficiently high to be enough of an incentive for employing persons with disabilities.

- 3) Due to the deficient definition of persons with disabilities and lack of appropriate assessment of disability, it is not clear whether persons with disabilities that are covered by the Act indeed involve those with severe impairments or just those whose level of impairment would not significantly influence their employment prospects anyway
- 4) the Act further stipulates that the employer has an obligation to modify the workplace in accordance with the principle of reasonable accommodation and is entitled to co-financing but the whole process is too bureaucraticised for potential employers.
- 5) When it comes to the use of incentives for employing persons with disabilities, the survey conducted by the Disability Ombudsman's Office in 2010 showed that a significant number of public and state employers on whom the obligation of quota has been imposed and who indeed employ persons with disabilities do not even use incentives.
- 6) Subsequent acts such as the Act on Civil servants is in collision with the Act on professional rehabilitation and employment of persons with disabilities
- 7) Centres for professional rehabilitation have not been established yet
- 8) Since employers design and report requirements for adjusting the workplace on their own, there is no professional and objective assessment of the requirements and ways of adapting the workplace

## **EMPLOYMENT OF PERSONS WITH INTELLECTUAL AND PSYCHO-SOCIAL DISABILITIES**

As it was mentioned before, one of the main obstacles to employment of persons with intellectual impairment on the open market is the fact that they are placed under guardianship and have been deprived of legal capacity which prevents them from signing contract of employment.

Persons with psycho-social disability are faced with consequences of stigma upon return to work after their periods of crisis and psychiatric treatment which makes it hard for them to retain employment. Associations providing support to this group of persons with disabilities also emphasized lack of recognition of special issues associated with this group in regulations in the area of work and employment.

There is also no body for assessment of remaining work capacity of persons with psycho-social disability who developed their disability prior to employment and there is also lack of programs

of professional rehabilitations for this disability group but also for other groups, as mentioned earlier.

#### DATA ON EMPLOYMENT OF WOMEN WITH DISABILITIES

Based on the data provided by Croatian Employment Service, the structure of employment of women with disabilities broken down by the type of impairment for 2010 and 2011 shows no difference compared to structure of employment of all persons with disabilities. Ratio of employed women with disabilities in the total number of employed persons with disabilities does not exceed 50 % which points at higher employment of men, persons with disabilities.

**Table 5 Number of employed persons with disabilities and number of employed women with disabilities broken down by the type of impairment in 2011**

| Type of impairment                     | Employed PwD | Employed WwD | Ratio of women in total No of PwD |
|--|--------------|--------------|-----------------------------------|
| Combined difficulties                  | 267          | 86           | 32,21                             |
| Chronic diseases                       | 34           | 12           | 35,29                             |
| Intellectual difficulties              | 582          | 240          | 41,24                             |
| Hearing Impairment                     | 156          | 67           | 42,95                             |
| Visual impairment                      | 66           | 26           | 39,39                             |
| Impairment of voice and communication  | 45           | 18           | 40,00                             |
| Psychological and organic difficulties | 43           | 8            | 18,60                             |
| Physical disability                    | 272          | 81           | 29,78                             |
| <b>TOTAL</b>                           | <b>1.465</b> | <b>538</b>   | <b>36,72</b>                      |

**Table 6 Number of employed persons with disabilities and number of employed women with disabilities broken down by the type of impairment in the period between 1 January and 30 June 2012**

| Type of impairment                    | Employed PwD | Employed WwD | Ratio of women in total No of PwD |
|---------------------------------------|--------------|--------------|-----------------------------------|
| Combined difficulties                 | 131          | 40           | 30,53                             |
| Chronic diseases                      | 34           | 11           | 32,35                             |
| Intellectual difficulties             | 301          | 115          | 38,21                             |
| Hearing impairment                    | 91           | 38           | 41,76                             |
| Visual impairment                     | 35           | 8            | 22,86                             |
| Impairment of voice and communication | 30           | 9            | 0,3                               |
| Psychological and organic             | 21           | 6            | 28,57                             |

|                     |            |            |              |
|---------------------|------------|------------|--------------|
| difficulties        |            |            |              |
| Physical disability | 168        | 44         | 26,19        |
| <b>TOTAL</b>        | <b>811</b> | <b>271</b> | <b>33,42</b> |

When it comes to the type of impairment, the greatest number of persons with disabilities employed in the first six months of 2012 were persons with intellectual difficulties (total of 301 or 37,1%), followed by persons with physical disability (total of 168 or 21%) and persons with combined difficulties (total of 131 or 16,1%).

**4. Involvement of persons with disabilities and their representative organizations in the development, implementation and monitoring of legislation and policies to promote and protect the right of persons with disabilities to work.**

The general assessment by both the associations of persons with disabilities and the Disability Ombudsman's office is that persons with disabilities are, through their representative organisations, involved in the development, monitoring and implementations of acts and policies pertaining to persons with disabilities. The Disability Ombudsman's Office in particular follows the announcement of modifications to acts regulating issues of importance for persons with disabilities and informs the DPOs.

The Office also reminds the government bodies of the obligation contained in the *Code of good practices on counselling with the interested public in the process of enactment of laws and regulations*. That Code enacted by a Government decision prescribed the obligation of government bodies to inform the interested public of the proposed changes and involve its representatives in the working groups drafting bills. It is the impression that members of associations of persons with disabilities are indeed members of working group when bills of particular importance for persons with disabilities are drafted.

The only objection that DPOs indicate in the process is lack of funding for basic running of the associations which has adverse effect on their ability to engage in consultative process and get involved in drafting bills since these activities are not covered by projects and even if they were, financing through projects cannot provide consistency.

Therefore, DPOs are currently in the process of drafting their own proposal of the bill on associations of persons with disabilities which would ensure consistent funding for basic running of at least national umbrella associations. Some associations in this questionnaire pointed out at the possible conflict of roles of an NGO which is primarily financed by the government and their ability to constructively criticise the government as an NGO should.

Organisations of persons with disabilities also undertake numerous activities in all parts of Croatia aimed at local and regional self-government and private entrepreneurs informing them on incentives and other benefits provided by the state for employing persons with disabilities.

**5. International cooperation programmes related to the promotion of work and employment opportunities for persons with disabilities. Is your organization involved in any such programme?**

Disability Ombudsman's Office takes an active role in familiarising with the best practices in the area of employment at the international level and disseminating the acquired knowledge among stakeholders in Croatia. Representatives of the office took part in conferences such as *Business Obligations Towards Disabled Persons under EU and International Anti-Discrimination Law* held in Denmark in 2010 and at annual international conference on employment of persons with disabilities held in Zadar in cooperation with Austrian stakeholders in this area.

The office lacks sufficient funding and human resources to be more active in that area. However, in cooperation with other agencies, the Office organises exchange of experience for DPOs and all the relevant stakeholders including among other topics, the topic of employment of persons with disabilities. Such exchanges have so far been organised with Austrian and Swedish experts and with support of their respective embassies to Croatia.

DPOs in particular umbrella organisations try to, to the extent their limited budget allow it, engage in international exchange programmes especially ones available within EU programmes. However, they pointed out the lack of central point that would gather information obtained by the participants of international exchange activities. Relevant institutions in the field such as Croatian Employment Service and Fund for Professional Rehabilitation and Employment of Persons with Disabilities are also active in attending international conferences on this topic.

EU funded projects provided yet another opportunity for Croatian stakeholders in the disability employment area, both the institutions as well as DPOs, to learn from best practices of other countries. Some of these projects which were realised within the Instrument for Pre-Accession Assistance (IPA) involved the following projects: Services provided by Croatian Employment Service: Improving life-long vocational guidance and ICT support; Fostering effective inclusion of persons with disabilities into the labour market; Professional rehabilitation as a method of integration of persons with disabilities into Croatian labour market; Introduction of virtual workshop model for long-term unemployed with the aim of increasing their employability, grant scheme Improving access to the labour market for vulnerable groups.

**6. Is there any additional information you wish to provide?**

The area we find important to mention in relation to employment of PwDs is the issue of sheltered employment.

**SHELTERED EMPLOYMENT**

Today there are 6 sheltered workshops in Croatia and 4 work units within companies with the total of 560 employees. 20 years ago there were 39 sheltered workshops which employed 3 500 persons with disabilities. (data from the study „Fostering effective inclusion of persons with

disabilities into the labour market" drafted as a part of the EU programme for Croatia IPA Component IV – Human Resources Development).

The sharp decline in the number of sheltered workshops by no means indicates that persons with disabilities were employed on the open market but that sheltered workshops closed down due to lack of support from both the state and local government and persons with disabilities working there remained even without that possibility to work.

In the situation of increased supply and decreased demand for labour force, persons with disabilities find it additionally difficult to get employment at the open labour market. As we have pointed out earlier, apart from deficiencies in legal regulation, there is a lack of information on incentives offered to employers as well as on the working and general potential of persons with disabilities, long term unemployment which leads to loss of knowledge and skills, inadequate education and difficulties in gaining sufficient working experience upon completing education.

Yours sincerely,

