



ECONOMIC DEVELOPMENT AND REFORMS WITH WOMEN PARTICIPATION

(Women's economic and social rights)



*Vesna Vukmanić,
Initiative and Civil Action (ICVA)
In collaboration with PRAVA ZA SVE Sarajevo*



This policy paper links to the recently adopted policy for establishing gender equality (EU Gender Action Plan 2016-2020) in the European Union (EU) accession process.

EU Gender Action Plan 2016-2020 was adopted by the European Commission and the EEAS as a new framework for the EU's activities on gender equality and women's empowerment. Its aim is to support partner countries, especially in developing, enlargement and neighbouring countries, to achieve tangible results towards gender equality which is at the core of European values, as well as the new Sustainable Development Goals (SDGs).

The new framework is divided into four pillars: **Fighting violence of any kind against women and girls; Economic and social empowerment; Strengthening voice and participation; and Shifting institutional culture.**

EU High Representative/Vice-President
Federica Mogherini said:

“Women’s rights are human rights and human rights are women’s rights. We want to provide our partners with the effective support they need in order to fight violence against women and girls and at the same time to empower them socially and economically, so that women can participate actively in the political, social and cultural life of their countries.”¹

CSOs contribution to the EU Country Report
Bosnia and Herzegovina 2016

1 http://europa.eu/rapid/press-release_IP-15-5690_en.htm

Background

Despite all the international documents adopted, policies and laws introduced, women's rights in the fields of employment, labour and administration, as well as in the field of social rights, continue to be violated equally, years after plans have been adopted and protection mechanisms established. Women make up 51% of the total population of employment age in Bosnia and Herzegovina (BiH), but for a number of years they make up, with slight changes, no more than 37% of the total employed population in the country.²

The existing legislative framework, relevant policies and institutional mechanisms for protection of women's economic and social rights are generally ineffective in their protection, as reflected through the following:

- absence of political and financial decisions and actions by the authorities, primarily by entity and cantonal governments, aimed at ensuring implementation of adopted laws and policies (including laws on labour and social protection, as well as the BiH Gender Equality Law³) and ensure equal position for women in the exercise of social and economic rights;
- inefficient functioning of institutional protection mechanisms (insufficient numbers and inefficiency of inspectorates in controlling and sanctioning non-implementation of laws, non-observance of recommendations by the Ombudsman Institution, insufficient influence of the state gender mechanisms in the practical protection of economic and social rights of women).

The 2015 EC Report on the Progress of BiH in the Accession Process⁴ confirms that there has been no progress in the application of legislation in the field of social protection, with differences in social contributions and benefits at all levels of governance. Also, the Progress Report underscores that labour inspectorates continue to be understaffed and cannot perform their tasks adequately.

2 This analysis uses data from the Labour Force Survey (LFS), due to notable difference between formally registered and surveyed (un)employment, which is considered to be a reflection of a large share of employment in the informal economy. LFS is conducted every year by the statistics agencies in BiH on a sample of 10,598 households across BiH, in compliance with ILO recommendations and definitions and in compliance with EUROSTAT recommendations. The above data are from comparable statistics according to LFS for the period 2007-2015. LFS data available at: http://www.bhas.ba/?option=com_content&view=article&id=113=ba (1.6.2016)

3 BiH Gender Equality Law (Official Gazette No 32/10)

4 European Commission, 2015 REPORT FOR BiH, available at: http://www.dei.gov.ba/dei/bih_cu/paket/default.aspx?id=10098&langTag=bs-BA (1.6.2016)

The Reform Agenda for BiH (2015-2018)⁵ is the most important strategic document for this period that will impact the exercise of economic and social rights of BiH Citizens. As the exercise of those rights by women in BiH continues to be burdened by a host of restrictions, it would be realistic to expect that the Reform Agenda will, in compliance with the EU *acquis* and as a precondition for the accession of BiH to the EU, bring new laws, regulations and measures that would enable equal enjoyment of economic and social rights for women, on equal grounds as men.

As the Reform Agenda provides for social protection reforms and improvements in the labour market – areas where, according to numerous indicators, women are placed far more unfavourably than men – it is necessary to open dialogue to include governmental and non-governmental mechanisms and organisations for protection of women’s rights in the process of defining specific measures, with the aim of ensuring that new laws and measures responds to the problems identified in the enjoyment of economic and social rights of women.

Proposed measures:

- **In relation to the Reform Agenda and the forthcoming reforms, announced and initiated:** in elaborating the mid-term priorities of the Reform Agenda into ‘initial measures and undertakings’ for 2016, there should be an assessment of impact of the proposed measures, laws and policies from the vantage point of gender equality, and relevant analyses, statistics and benchmarks should be elaborated, in order to ensure equal impact of those measures on both genders, and to open the process that would include all levels of gender equality mechanisms and civil society organisations (CSO).

Access to the right to work

Compared to the regional average, employment in BiH is low. However, employment of women is much lower than in the rest of the region, as well as in relation to the level of development of the country.⁶ Years of stable statistics of (un)employment of women⁷ show that, although the BiH labour legislation incorporates provisions prohibiting discrimination against women in employment and labour

5 Reform Agenda for BiH for the period 2015-2018, available at: http://www.vijeceministara.gov.ba/home_right_docs/default.aspx?id=20037&langTag=hr-HR (1.6.2016)

6 See: BiH: Gender differences in utilising the rights and opportunities offered by the society, access to economic opportunities and representation (2015) World Bank, BiH Statistics Agency, FBiH Statistics Agency and RS Statistics Agency, available at: <http://arsbih.gov.ba/wp-content/uploads/2016/03/WB-Rodne-razlike-u-iskoris%CC%8Ctavanju-prava.pdf> (1.6.2016)

7 Comparable statistics according to ARS for the period 2007-2015.

and although relevant employment policies have been adopted, the practice in the exercise of women's rights to employment and labour is frequently discriminating.

CSOs indicate that women are victims of gender-based discrimination in the exercise of the right to work far more frequently than men. Numerous women remain unemployed as employment is frequently conditioned by a guarantee that they would not bear children. When they are employed, they are likely to be dismissed due to maternity leave. Employment contracts are terminated under the pre-text of redundancy.⁸ In contacts with the beneficiaries, CSOs learn that women are even forced to sign additional agreements on mutually agreed termination, accepting an obligation not to take maternity leave for a certain period of time, usually five years. If they do take maternity leave, the pre-agreed termination agreement becomes active.

A considerable number of private companies and retail chains employ staff under limited-duration contracts, signed for short periods of time and extended on monthly bases. In such situations, women have no right to maternity leave, and should she become pregnant, the female employee is dismissed following the expiry of such a contract.

Special programmes of re-training, employment and self-employment of women through employment bureaus are not regular, but rather occasional and with very few women covered (from 50 to 120)⁹. Data from the RS Employment Bureau show a disproportionately higher number of men than women with disability employed through the Fund for Professional Rehabilitation and Employment of Persons with Disabilities, since most of the persons employed through the Fund are disabled veterans of war. The impact of such programmes on the employment of women, particularly those who have been inactive in the labour market for longer periods of time, remains minimal, as illustrated by the available statistics.

Lack of sanctions against violations and non-application of positive legislation restricts women in promotion and management

Gender-based discrimination in the field of labour is particularly evident in the process of promotions and managerial appointments in companies and institutions.¹⁰ Although statistics indicate that the majority of employees in healthcare, social and educational institutions are indeed women, the composition of managing boards of these institutions does not reflect this. In most public enterprises

8 Demir E. (2015) Discrimination in the field of labour in BiH, Association for Democratic Initiatives Sarajevo, available at: <http://adi.org.ba/wp-content/uploads/2015/11/Diskriminacija-u-oblasti-rada-Final-9112015.pdf> (1.6.2016)

9 Response by institutions and enterprises in preventing discrimination against women in BiH – Report, ICVA/Zemlja djece 2014

10 Demir E. (2015) Discrimination in the field of labour in BiH, Association for Democratic Initiatives Sarajevo.

and institutions there is the so-called glass ceiling in the professional advancement of women. In the 45 BiH public enterprises and institutions analysed,¹¹ the structure of the managing boards is pronouncedly non-representative of women. CSO data indicate that, for example, a major public enterprise in the field of telecommunications employs 310 men and 110 women, and the managerial structure comprises men only, with 10 men in senior management.

The CSO analysis of 45 public enterprises and institutions shows that none of them have any internal regulations on gender equality and protection of employees from discrimination. Although such practice is contrary to provisions of the BiH Gender Equality Law,¹² those enterprises and institutions have never been subject to any monitoring or control of application of the Law and have never been sanctioned by the relevant labour inspections for their failure to comply with the relevant legislation.¹³

Proposed measures:

- **In relation to access to the right to work and violation of positive legislation:** it is necessary to allocate funds and restructure staff placement in order to strengthen labour inspectorates, allowing them to monitor and sanction failures to apply legislation relevant for women's economic rights (work, employment, management), including the establishment of the currently non-existent supervision of application of the BiH Gender Equality Law¹⁴ by public bodies, institutions and enterprises. Inspections should monitor and prevent the signing of 'permanent three-month contracts' or contracts with special clauses for cases of pregnancy, and inhibit the existence of the 'glass ceiling' for women in promotions (ensuring 40% participation of women in managerial structures), etc.
- **In relation to employment of women:** establish and ensure funds for life-long learning and effective employment programmes for particularly vulnerable groups of women and women with long-term inactivity, in order to facilitate their access to the labour market. Existing programmes should be monitored and assessed regularly in terms of impact of the proposed measures on women, particularly those suffering multiple discrimination.

11 Response by institutions and enterprises in preventing discrimination in BiH - Report (2014) ICVA/Zemlja djece.

12 BiH Gender Equality Law (Official Gazette No. 32/10)

13 Response by institutions and enterprises in preventing discrimination in BiH - Report (2014) ICVA/Zemlja djece.

14 BiH Gender Equality Law (Official Gazette No 32/10)

Protection of the right to maternity leave and maternity benefits¹⁵

Fragmented financing at the cantonal level in FBiH leads to discrimination against women in relation to rights related to maternity leave and protection of families with children. Some cantons do not pay maternity benefits at all, while some have no common bases for calculating the amount of those benefits. The right of employed mothers to maternity leave and benefits is treated as a social right rather than an employment and insurance right.

For different reasons, the state is forced to reduce budgets and introduce rapid reforms. There is no doubt that a thorough reform is needed in all areas, particularly the area of social protection, since BiH has a large number of beneficiaries and high disbursements in this area. However, the lack of systemic analyses of impacts of certain reforms and budget cuts on citizens, particularly women, is alarming.

Lacking the funds, the state first cuts the rights and benefits for women and children, and only then for some other social protection categories. For years and years, the FBiH Ministry of Labour and Social Protection has been stalling the adoption of the law on maternity and social protection aimed at regulating financing and ensuring equal rights of women and children to social protection at the level of FBiH, and at regulating the right of women and men to maternity/parental leave as a right arising from employment and insurance.

Particular attention is required regarding the position of women suffering multiple discrimination (Roma women, women in rural and remote areas, illiterate women) who do not have equal access to social protection rights, due to the generally poor targeting of social assistance beneficiaries and the lack of measures to respond to the discrimination they suffer.

In the field of social protection, the Reform Agenda provides for better targeting of social assistance, which would improve considerably the position of particularly vulnerable women currently excluded from the system of protection.

15 Special report on the state of protection of mothers and maternity in the territory of the Federation BiH (2015) BiH Human Rights Ombudsman Institution, available at: http://www.ombudsmen.gov.ba/documents/obudsmen_doc2015102111102085bos.pdf (1.6.2016)

Insufficient services and assistance programmes for employed parents restrict women's access to work

Availability of childcare services for employed parents is a particular problem. BiH has almost the lowest level of pre-school education coverage in Europe.¹⁶ The problem is exacerbated for parents with children with severe disability, whom employers are reluctant to hire, with the excuse that they would be often absent from work in order to care for their child. As there are no day centres or other forms of providing care for children with disabilities, usually one parent, traditionally the mother leaves work to care for such a child. Shortage of capacity of pre-school institutions, particularly those for children with disabilities, is frequently the reason for women to leave work.

Just like in other reforms and actions, there is a visible tendency to shift childcare, care for the elderly, persons with disabilities and other family members from the state to women.¹⁷ This way, many women are simply excluded from economic life and social participation.

In the field of labour, the Reform Agenda provides for flexibility of working conditions with a possibility of half-time employment, which would largely improve access to work for women with children, particularly with children with disabilities. At the same time, assessment of impact of such measures should ensure that such employment does not lead to unequal treatment of women.

Proposed measures:

- **In relation to access to the right to maternity benefits:** ensure efficient and non-discriminatory maternity protection in all the cantons of the Federation BiH, while securing budget funds for practical implementation of applicable laws. With better regulation of the bases to these rights and calculation and benefits for unemployed mothers, the government should regulate the right of employed mothers/parents as an employment-related right and pay the benefits through health insurance funds.
- **In relation to the Reform Agenda and social protection reform:** a new system must be better targeted towards particularly vulnerable women in a state of social need, who suffer multiple discrimination and currently remain outside the social protection system;

16 According to UNICEF, "it is estimated that access to pre-school education is currently between 6 and 13%, which is the lowest rate in the region (as compared with Croatia and Serbia with approximately 45%, Macedonia with 25%, and well below the OECD average of 77%)", available at: http://www.unicef.org/bih/ba/media_20011.html (1.6.2016)

17 See for example: Draft law on foster care in FBiH, available at: http://www.parlamentfbih.gov.ba/dom_naroda_bos/parlament/propsi/El_materijali_2015/Zakon%20o%20hraniteljstvu_bos.pdf (1.6.2016)

- **In relation to the Reform Agenda and social protection reform:** secure services that would assist unhindered access to the labour market for women (day-care facilities, including day-care for children with special needs, benefits for women who cannot seek employment because they provide care for other family members).



Vesna Vukmanić has 20 years of experience in civil society work, including 10 years as ICVA BiH director; this includes: analyses of situation and needs in the field of NGO work and designing ICVA activities accordingly, particularly in relation to protection of the rights of vulnerable groups and empowerment of NGOs in decision-making and influencing development processes in BiH.



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PRAVA ZA SVE is a BiH civil society organisation active in the field of human rights protection and advocacy aimed at creating a fair and democratic society based on human rights principles. PRAVA ZA SVE seeks public responsibility for respect, protection and exercise of human rights for all; seeks justice for victims of human rights violations; promotes equal opportunities for all, irrespective of sex or gender, disability, race or minority status, sexual or gender orientation or any other difference; supports development and empowerment of excluded groups and communities.

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