

Minority Access to Employment in Montenegro

By Nedjeljka Sindik

This study addresses the problem of discrimination in employment in Montenegro. The aim is to show whether discrimination in accessing job opportunities and employment of persons belonging to national minorities¹ and other minority groups exists in Montenegro,² and if so, what are its patterns.

This study is based on legal provisions, official reports, corresponding non-governmental organizations' (NGOs) reports, research and workshop, seminar and conference reports, and empirically gathered data.³

Legislative framework

The right to work and to secure social welfare from the state are guaranteed by Articles 52 and 55 of the Montenegrin Constitution.

The Montenegrin Law on Employment and the Montenegrin Labour Law (Article 3) guarantees equality of all employees in the process of carrying out their work duties, whatever their ethnicity, race, gender, language, religion, political or other conviction, education, social origin, property situation or other personal affiliation. However, the Labour Law does not contain provisions prohibiting termination of employment on these bases.

The Montenegrin Constitution prohibits discrimination and guarantees the principle of equality before the law, although it does not contain specific provisions regarding discrimination at work. Article 73 of the Montenegrin Constitution stipulates that members of the national minorities and ethnic groups shall be guaranteed the right to proportional representation in the public services, state authorities and in local self-government.

Article 3 of the Montenegrin Law on Employment and Montenegrin Labour Law secures an equal right to employment, regardless of ethnicity.

The Montenegrin Labour Law and the Statute of the Montenegrin Employment Agency⁴ do not contain provisions regarding direct/indirect discrimination at work, or equal opportunity policies respectively.

Legislation on discrimination can be found in Articles 159, 225 and 443 of the Montenegrin Criminal Code. These articles stipulate fines or imprisonment for violating the equality provisions.

The Law on Civil Servants and Public Officials⁵ prohibits the denial of rights to or privileging of civil servants or public officials on political, ethnic, racial or religious grounds, or because of gender or any other reason adverse to the Constitution and rights and freedoms granted by the law.

The Statute of the Montenegrin Employment Agency⁶ and the Law on the Unique Methodology in Registrations in the Area of Labour and Forms of Applications and Reports do not contain any provisions regarding discrimination in employment.

The legislative framework contains serious inconsistencies. The Montenegrin Employment Law, Article 24, stipulates taking action to implement an 'active employment policy', which is considered an 'affirmative action'. However, Article 159 of the Criminal Law stipulates that anyone who, on the basis of 'ethnicity, race, gender, language, religion, political or other conviction, education, social origin, property situation and other personal affiliations', *denies or limits the rights* prescribed by the law and other documents and international treaties or *on the basis of diversity grants advantages on such grounds* will be imprisoned for three years. According to this article both discrimination and affirmative action are punishable offences. According to Article 159, the affirmative action described in Article 73 of the Montenegrin Constitution, which stipulates that members of the national and ethnic groups shall be guaranteed the right to proportional representation in the public services, state authorities and in local self-government, becomes a criminal offence. There are also specific inconsistencies in the right to employment for internally displaced persons (IDPs) and refugees.⁷

The Montenegrin legal framework lacks appropriate anti-discrimination legislation to prevent discrimination and a law on minorities which could stipulate affirmative action towards minorities.

Employment of minority members

According to the last census, 620,145 people live in Montenegro: 43.16 per cent are Montenegrins, 31.99 per cent Serbs, 7.77 per cent Bosniaks, 5.03 per cent Albanians, 4.34 per cent undeclared by ethnicity, 3.97 per cent

Muslims, 1.1 per cent Croatians, 0.4 per cent Roma and 0.99 per cent of unknown origin.

According to the survey of the eight municipalities, 50.7 per cent of interviewees found their jobs through personal friendships. In Ulcinj, 78.95 per cent of interviewees belonging to minority communities found their jobs in this way and 10.53 per cent offered money in order to be employed; none of the interviewees in this town found employment through the Employment Agency. In the other municipalities surveyed, a smaller proportion of people found jobs through personal friendships: approximately half the interviewees in Podgorica, Cetinje and Bijelo Polje, one-third in Pljevlja and Rozaje, and about a quarter in Tivat.

None of the interviewees found a job through the Employment Agency in Tivat, while 18 per cent have been employed through political pressures. Moreover, interviewees who paid for their employment, and those employed through political pressures had waited from two to five or more years for their job opportunity, while registered as unemployed with the Employment Agency.

According to the legal framework, members of minority and ethnic communities should be proportionally represented in public administration, state and local government authorities.

Since 1999, the Ministry for the Protection of Minority and Ethnic Rights has attempted to collect data concerning the structure of those employed in state authorities. However, no research project has produced complete and good-quality data. The ministry, which has been led by the same minority political party (Democratic Union of Albanians, DUA) for eight years, does not employ persons from all minority communities⁸ – and thus does not set a positive example for other state institutions.

The number of women employed in state institutions is within proportional limits. However, among the higher official positions their number is insignificant.

The relationships between political parties in power at local and Republican level, and the issue of employment in the institutions of the state, are clearly reflected in the data. In Pljevlja, where municipal authorities are represented by pro-Serb parties, and Republican authorities are represented by pro-independence parties, the facts speak for themselves – the institutions employ members of their respective communities or their political supporters.

In one year Darko, a member of the majority community, applied for three jobs advertised in a newspaper in his town. Each time he was rejected. The explanations were: 'You should ask for a job from persons with same political orientation, not us.'

According to the 2003 Census, in Pljevlja there were 60.1 per cent Serbs, 21.5 per cent Montenegrins, 13.3 per cent Muslims/Bosniaks, 4 per cent undeclared and 1.0 per

cent persons belonging to other minorities. Among the employees at the Pljevlja Town Hall there were 89.7 per cent Serbs, and 10.3 per cent Muslims/Bosniaks; in the law court, 87.2 per cent Montenegrins and 12.8 Muslims/Bosniaks, while among public institutions there were 74.1 per cent Serbs, 20.4 per cent Montenegrins and 5.6 per cent Muslims/Bosniaks.

A similar situation exists in other municipalities. In Tivat, due to political pressure, Croats as a minority community are proportionately over-represented in the municipality, whereas they are represented less in public institutions. In Podgorica and Bijelo Polje, Serbs are under-represented because they are not in power at local level, while Serbs in Cetinje and Muslims and Bosniaks in Podgorica are over-represented more than 100 per cent.

The syndrome of 'conflict of interest' – that is, the incompatibility of combining a public function with active private business activities – along with the easily detectable web of personal links, has increased international distrust of Montenegro. This has begun to be tackled since the Law on Conflict of Interests was adopted in 2005, although the law has had little effect so far.

Employment discrimination

To the question of whether employment discrimination exists in Montenegro or not, 71.4 per cent of interviewees in eight municipalities answered 'yes'.

Of all the interviewees, 57.1 per cent believe there is discrimination based on ethnicity. The breakdown of figures according to each municipality shows that in Ulcinj, Tivat and Podgorica, the number of interviewees who believed such discrimination existed was particularly high (90 per cent, 80 per cent and 80 per cent respectively).

Discrimination based on gender also exists – 52.9 per cent of interviewees believe there is discrimination according to gender. However, there is strong variation with regard to this issue at the local level: 80 per cent of interviewees in Podgorica, 70 per cent of those in Tivat, and 60 per cent in Ulcinj and Cetinje respectively, believe there is employment discrimination based on gender, while 80 per cent of interviewees in Plav and 70 per cent in Bijelo Polje believe there is no gender-based discrimination.

In relation to age, 51.4 per cent of interviewees believe there is employment discrimination. At the local level, the belief that there is discrimination based on age is most apparent in Tivat (80 per cent), Cetinje (70 per cent) and Podgorica and Ulcinj (60 per cent each). This kind of discrimination was not recognized at all in Plav.

Discrimination based on educational background was believed to exist by 75 per cent of interviewees in Tivat. In most other municipalities, about half believed this form of discrimination existed, whereas interviewees in Ulcinj and Plav do not believe this form of discrimination exists.

Cases of employment discrimination

Often, public institutions, and sometimes private institutions, advertise positions asking for requirements that have no connection with qualifications a person should have for that position. For the position of secretary in one hotel, the required qualifications were not graduation from tourism high school, language and computer skills and office management, but graduation from music school and graduation as a music performer. The advertisement for a receptionist at the same hotel required a qualification in cooking.

Ana's friend Sanja told her that she would get a job as an assistant in a public library. Ana was surprised; she knew that Sanja is not qualified for this position. She asked Sanja if there was a newspaper advertisement for this job and was told that the position would be advertised the following week. Sanja said that this job was promised to her, and no one else would get it. Despite this, Ana applied for the position. She was rejected, although she fulfilled all requirements for the position. Her friend Sanja got the job.

Significantly, 52.2 per cent of interviewees recognize discrimination in education based on ethnicity, 30.4 per cent are not sure about it and 17.4 per cent believe there is no such discrimination. This form of discrimination is recognized by more than half the interviewees in Podgorica, and more than 95 per cent in Tivat and Bijelo Polje. Even in Cetinje, Plav and Rozaje, the prevailing opinion (60 per cent) is that discrimination in education based on ethnicity exists.

Half the interviewees have faced employment discrimination. Two-thirds of interviewees in Tivat and Ulcinj say they have faced such discrimination, and one-fifth of interviewees in Plav.

Of the interviewees, 22.86 believe that discrimination favours the majority community; 17.14 that it favours politicians; and 15.71 per cent that it favours the authorities in power. At the local level, three-quarters of interviewees in Tivat consider that discrimination favours politicians, whereas in Ulcinj half believe that discrimination favours authorities in power.

Of the interviewees, 37.58 per cent believe that discrimination is not favourable for minorities, 18.57 per cent that it works against women, 10 per cent that it works against the unemployed as a separate grouping, 4.92 per cent that it works against those with different political views, and 1.43 per cent that it works against persons with disabilities. This reflects the low level of awareness among citizens of the needs of groups they do not belong to.

Conclusion

In Montenegro minorities are usually discriminated against according to the size of their communities. Within minority communities, people are discriminated against on the grounds of political affiliation, and in relation to gender, age and disability.

The research shows that there is discrimination in minorities' access to employment: 50.7 per cent of minorities find jobs through private connections; 57.1 per cent of interviewees believe that there is discrimination on the basis of ethnicity, 48.6 on the basis of age, 52.6 on the basis of gender, 52.9 on the basis of religion; and 52.2 per cent believe that there is discrimination in education on the basis of ethnicity, 51.6 on the basis of disability and 50.7 on the basis of gender.

In Montenegro in late 2004 there were 71,759 registered unemployed persons, of whom 19,928 have been unemployed for more than eight years.⁹

Discrimination in Montenegro is deeply entrenched. It is not just a problem for minorities, but for the whole society. Among the victims of discrimination there are also members of the majority community within the regions where national minorities represent the majority; people belonging to 'political' minorities; people who lost their jobs because of privatization or nepotism; and people were discriminated against because of their age. Furthermore, citizens are afraid to express different opinions since they could be dismissed from their jobs.

Notes

- 1 National minorities in Montenegro are: Albanians, Bosniaks, Croats, Muslims and Roma.
- 2 This report does not deal with discrimination against the Roma population. For a study on this issue see Sindik, N. and Kiers, J., *Roma Access to Employment in Montenegro*, Strasbourg, Council of Europe, 2004. Moreover, the study does not analyse in detail the issue of gender equality and discrimination in Montenegro, because there is little data and it requires a separate study.
- 3 Following discussions with government representatives, NGO activists, minority members, representatives of the institutions concerned and international organizations, eight municipalities in Montenegro were surveyed on job opportunities and unemployment using focus groups and questionnaires. Of the interviewees, 36.7 per cent were educated to university degree level, 48.9 per cent had secondary education and 14.4 per cent had primary education; 82.2 per cent were employed and 17.8 per cent unemployed. The proportion of male and female interviewees tended to be equal and never exceeded a ratio of 60:40. Each focus group had two persons belonging to the majority and eight persons belonging to minority communities; five employed, five unemployed; five men, five women; two young persons (between 18 and 30), six middle-aged persons (between 26 and 50), two older persons (older than 50).
- 4 *Official Gazette of the Republic of Montenegro*, 43/2002 of 15.8.2002.
- 5 *Ibid.*, 21.04.2004.
- 6 *Ibid.*, 43/2002.
- 7 Sindik and Kiers, *op. cit.*
- 8 There are no Croats or Roma among their employees.
- 9 Statistics showing data on different national minorities were not recorded in the 1990s. This has resulted in data that cannot give reliable information for establishing whether discrimination exists or not.

working to secure the rights of minorities and indigenous peoples

Recommendations by the citizens

The interviewees formulated the following views on combating discrimination and employment policy.

The government should:

- Enable legally based equality among citizens, and in access to employment
- Pass an anti-discrimination law and implement already adopted laws
- Draft a Strategy of Employment for minorities and other affected groups
- Create programmes for retraining unemployed persons
- Draft a high-quality social programme
- Put principles of affirmative action in place.

Municipal authorities should:

- Be familiar with the levels of unemployment in their respective territories
- Draft programmes that would assist employment at local level
- Ensure equal access to employment for all their citizens, combat employment based upon political, familial and friendship relations and fight corruption.

Local employers should:

- Follow legal prescriptions for employment procedures and not employ people on the basis of political or personal links.

Local organizations should:

- Organize campaigns against discrimination and raise awareness among citizens on the importance of non-discrimination
- Work to decrease discrimination and to eliminate its causes.

International organizations should:

- Monitor related processes
- Foster respect for the rights of minorities, women and other groups that are discriminated against in employment.

General Recommendations

- Legislation to prevent discrimination should be enforced
- Statistics based on gender, ethnicity, disability status, education background should be gathered
- Programmes should be drafted to protect the affected groups
- A strategy should be put in place to deal with the discrimination in access to employment
- A law on prohibition of discrimination should be put in place.

Minority Rights Group International (MRG) is a non-governmental organization (NGO) working to secure the rights of ethnic, religious and linguistic minorities worldwide, and to promote cooperation and understanding between communities. MRG has consultative status with the United Nations Economic and Social Council (ECOSOC), and observer status with the African Commission on Human and Peoples' Rights. MRG is registered as a charity, no. 282305, and a company limited by guarantee in the UK, no. 1544957.

Non-Governmental Organization ASK was established 2000 in Podgorica, Montenegro. The mission of the organization is recognition of and respect for the rights of the minorities and marginalized groups, respect for the rule of law and equal opportunities for all.

Acknowledgements The author is Nedjeljka Sindik, NGO Ask, Podgorica with support of local partners in eight Montenegrin municipalities. MRG and its programme partners gratefully acknowledge the financial support of the Charles Stewart Mott Foundation, Development Cooperation Ireland, DfID, EC CARDS and SIDA East. Project coordinated by Zoe Gray and Tibor T. Meszmann; edited by Sophie Richmond.

ISBN 1 904584 40 3 This study is published as a contribution to public understanding. The text does not necessarily represent in every detail the collective view of MRG or its partners. Copies of this study are available online at www.minorityrights.org. Copies can also be obtained from MRG's London office. Published May 2006.

Minority Rights Group International 54 Commercial Street, London E1 6LT, United Kingdom

Tel +44 (0)20 7422 4200 **Fax** +44 (0)20 7422 4201

Email minority.rights@mrgmail.org **Website** www.minorityrights.org