

GOVERNMENT OF MONTENEGRO, Mr Milo Đukanović, Prime Minister

MINISTRY OF EDUCATION, Mr Predrag Bošković, Minister

MINISTRY OF LABOUR AND SOCIAL WELFARE, Mr Boris Marić, Minister

Podgorica, 29 September 2016

Subject: NGOs appeal for permanent sustainable engagement of teaching assistants for children with special educational needs

Dear Prime Minister Đukanović,

Dear Minister Bošković,

Dear Minister Marić,

We urge you to take immediate steps within your competence to ensure permanent, sustainable and paid employment of teaching assistants for all children directed to inclusive education in educational institutions in Montenegro, and whose need for teaching assistance in order to join the educational process has been determined in orientation decisions. We believe this to be the only way to exercise the right of children with special educational needs to free primary education without discrimination, guaranteed to them by the Constitution of Montenegro.

A teaching assistant is provided for children with severe and profound physical disabilities, moderate mental disabilities, children with visual impairment, partial or complete loss of hearing, with moderate to severe speech and language disorders and autism.¹ Inclusive education of these children is not possible without the support of an assistant.

At the beginning of school year 2016/2017 not all children directed toward inclusive education have started school because their parents could not afford to pay for an assistant for their children, since assistants' work in September and October is not paid due to limitations in recruitment in public institutions in the pre-election period on positions not prescribed by the act on systematization of work posts and position of a teaching assistant for children with special educational needs has unfortunately not been systematized to date.

Although the Ministry of Education has ensured, in collaboration with schools, that a

¹ Art. 14 of the Rules on the manner, conditions and procedure for orientation of children with special educational needs (*Sl. List CG*, no. 57, 30 November 2011).

significant number of assistants (265) commence their engagement in schools starting September on a voluntary basis and without any contract, assistants have still not been provided to all children who were granted a right to one in accordance with the orientation decision. To our knowledge, there are at least twice as many children who have received help of a teaching assistant as per decision on orientation.

Due to a years-long problem with regular payment of assistants' already modest remuneration through Public Works Program and implementation of grant schemes of the Employment Agency of Montenegro, the assistants who are adequately trained, who have gained valuable experience in working with children and that children have been used to had abandoned this calling after being denied once again - at the beginning of this school year - a contract and remuneration for their work.

Bearing in mind the right of children to free basic inclusive education, which is only possible with the support of teaching assistants that the state must provide on permanent basis (by engaging them, training them and paying them), we suggest:

- (1) The Government to ensure at once that in the acts on systematization of job posts schools prescribe a teaching assistant position for children with special educational needs, and so overcome limitations in employment in public institutions in the pre-election period and meet requirements to immediately conclude contracts with teaching assistants;
- (2) Ensure that persons engaged as teaching assistants be primarily adequately trained for the job, with most experience in this field. As a result, it would be possible to retain staff trained for the job and with valuable experience gained in the previous years, to the benefit of children who suffer due to the replacement of assistants whose help and support they have gotten used to;
- (3) Propose to the Parliament amendments to Art. 30a of the Act on Education of Children with Special Educational Needs ("Teaching Assistant") to stipulate that teaching assistants are to be paid from the state budget, instead of demanding that this challenging job be done "as a rule on a voluntary basis", as currently provided.

REASONING

1. The Constitution of Montenegro in Art. 68 guarantees special protection to persons with disabilities, in Art. 75 the right to education under equal conditions, as well as to compulsory and free primary education. The Constitution in Art. 8 prohibits discrimination while also pointing out that special measures aimed at creating conditions for achieving overall equality and protection of persons in an unequal position on any grounds do not constitute discrimination. A child shall be guaranteed special protection (Art. 73-74).
2. The Act on Education of Children with Special Educational Needs under Art. 30a stipulates: "A child with special educational needs may be provided a teaching assistant in the classroom, as technical assistance in terms of providing access to education and educational attainment. The Commission shall determine in a decision which children shall be granted technical assistance. Teaching assistant provides

technical support as a rule on a voluntary basis, in accordance with special law."

3. The Strategy for Inclusive Education in Montenegro (2014-2018) states that providing support to students in the form of assistance in the classroom has not been fully defined and standardized, emphasizing the need for a more active role of schools in organizing and monitoring the implementation of this type of support and sustainable funding model (p. 11). The Strategy recommends that an optimal and sustainable model of assisting students in the classroom be developed (p. 12).
4. In the Information on the Engagement of Teaching Assistants to Meet the Needs of Children with Special Educational Needs of 26 March 2015² drafted by the Ministry of Labour and Social Welfare it was indicated that "assistance should be introduced in a clear and precise manner, through amendments to the law in the field of education, because the practice has shown that due to the specific needs of children and the education process, this cannot be achieved through volunteer work." The Information explains that pending the definition of sustainable solutions, an interim solution should be implemented through Public Works Program and realization of grant schemes in the Employment Bureau of Montenegro, but also that "the problem of providing sufficient funds for the implementation of "teaching assistant" public work engagement for one school year is constantly present, as well as that problems in financing appear at the beginning of the new school year".
5. The aforesaid Information at the end states that in March 2015, in consultation with the Ministry of Education, Ministry of Labour and Social Welfare proposed timely start of activities to establish the number of children in need of an assistant, define teaching assistants' occupation, provide the required amount of funds for financing the Teaching assistants project for the needs of children with special educational needs for the entire 2015/2016 school year in cooperation with the Employment Bureau, and that the Ministry of Labour and Social Welfare amend the Act on Professional Rehabilitation and Employment of Persons with Disabilities to provide resources for this purpose from the Fund for professional rehabilitation and employment of persons with disabilities.
6. We are not aware whether any activities mentioned in paragraph 5 have been realized, apart from the fact that in the past school year (2015/2016) there were again delays in the payment of assistants' remuneration, i.e. problems in continuous financing.
7. This school year 2016/2017 started without employing a sufficient number of teaching assistants for all children with special educational needs. The assistants were engaged as a rule without a signed contract, with the recommendation to sign the contract on volunteering, on the grounds that the Act on Financing of Political Parties and Electoral Campaigns prevents their paid engagement.

² Information on the Engagement of Teaching Assistants to Meet the Needs of Children with Special Educational Needs of 26 March 2015, the Ministry of Labor and Social Welfare (<http://www.gov.me/biblioteka/informacije>).

8. Act on Financing Political Parties and Electoral Campaigns³ envisages that in the period from the date of announcement of election day, public institutions may exceptionally employ persons for a specific time period and conclude a contract for temporary and occasional work in order to ensure smooth and regular operation of these bodies, on the basis of a decision of the competent authority of these bodies, *only if provided so by the act on systematization of work posts* (Art. 33). As the beginning of 2016/2017 school year coincided with the so-called pre-election period, employment of assistants was made impossible in practice, because their positions had not been systematized in educational institutions. However, it is certainly unacceptable that the engagement of teaching assistants depends on the Employment Bureau project and that as a result of political, financial or other circumstances teaching assistants are not provided to all children with special educational needs, without exception.
9. Children with special educational needs currently attending classes in Montenegro are predominantly children whose parents can afford to pay for a teaching assistant's work. This school year, as well as in previous years, children with special educational needs whose parents are unable to financially support the work of an assistant are not able to appropriately attend classes. According to information obtained from the parents' association NGO *Our Sun*, there are at least five such children in Podgorica.
10. According to parents' association *Our Sun*, it is estimated that half of all children with special educational needs have not been assigned a teaching assistant. For example, in elementary school "May 21st", attended by more than twenty children with special educational needs, only thirteen assistants were hired, while in elementary school "Milovan Musa Burzan", attended by nine children with special educational needs, only three assistants were engaged. We believe there is no need for a special explanation as to why such actions undermine the essence of assistance in teaching - utter individual commitment to a child and his/her needs, while inclusive education fails to achieve any result.
11. The uncertainty of engagement that occurs at the beginning of each school year, and lasts throughout the year, forces teaching assistants to opt for a change of occupation. Children are those who suffer the consequences, who, as a rule, have a very difficult time accepting such changes, if at all ("My child cannot accept changing the desk where he sits in the classroom, let alone the person who worked with him for a year."). In this context, please examine the information that persons who lack necessary credentials and previous experience are engaged for these positions through Montenegrin Employment Bureau, without conducting evaluation of formally coordinated trainings for a teaching assistant job, and that people who are engaged have only passed a two-day course.
12. In relation to the international obligations of Montenegro, please note that the

³ Sl. list CG, 76/2015.

Convention on the Rights of Persons with Disabilities in Art. 24 guarantees the right to free inclusive education. Committee on the Rights of Persons with Disabilities recently (26 August 2016) published a General Comment on the right to inclusive education under the Convention, stipulating that the state must accept individual support as a matter of high priority that must be free of charge at all levels of compulsory education (§ 17). The Comment also specifies that placing of students with disabilities within mainstream classes without appropriate support does not constitute inclusion (§ 11). The Committee recommended that relevant educational institutions ensure that all resources are invested in improving inclusive education, as well as the necessary changes in the institutional culture, policy and practice (§ 12).

13. Previously, the Committee on the Rights of the Child (27 February 2007) published a General Comment No. 9 *on the rights of children with disabilities* in which it pointed out that "it should not be forgotten that it is the State Party's ultimate responsibility to oversee that adequate funds are allocated to children with disabilities along with strict guidelines for service delivery. Resources allocated to children with disabilities should be sufficient --and earmarked so that they are not used for other purposes-- to cover all their needs, including programmes established for training professionals working with children with disabilities such as teachers, physiotherapists and policymakers; education campaigns; financial support for families; income maintenance; social security; assistive devices; and related services. Furthermore, funding must also be ensured for other programmes aimed at including children with disabilities into mainstream education, *inter alia* by renovating schools to render them physically accessible to children with disabilities." (§20).

14. We believe it is reasonable to assume that the funds for paying teaching assistants' remuneration for one year can and must be provided in the budget of Montenegro, having in mind that the annual cost of such engagement amounts to cca € 410,000⁴, and that during a period of just over a year (up to 22 October 2015) almost € 1,000,000 was transferred from the account of the Ministry of Labour and Social Welfare to Tourist Organization and for the purpose of resolving housing issues of employees in the Ministry of Labour and Social Welfare, while the public was informed that in April the Ministry of Education donated € 800,000 to *Budućnost* sports club!! All of this assures us that funds do exist, however, it is necessary to invest primarily in the realization of basic human rights, such as the right to free and inclusive primary education of children with special needs.

Respectfully,

Milka Šćepanović, Executive Director of NGO *Our Sun*

⁴ Based on Information on the Engagement of Teaching Assistants to Meet the Needs of Children with Special Educational Needs of 26 March 2015, the table indicates that in 2014 total funding spent for "assistance work" amounted to a total of € 617,245.96, of which 66.29 % refers to teaching assistants, equal to € 409,171.71.

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