

# Vocational rehabilitation and employment of people with disabilities

## Report of a European Conference

Warsaw – Konstancin Jeziorna, 23-25 October 2003

*Organized by the Ministry of Economy, Labour and Social Policy of the  
Republic of Poland and the International Labour Organization,  
in cooperation with the Central European Initiative*



Ministry of Economy,  
Labour and Social Policy  
of the Republic of Poland



Central European Initiative



International Labour  
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## Introduction

The Ministry of Economy, Labour and Social Policy of the Republic of Poland and the International Labour Organization's Regional Office for Europe and Central Asia in Geneva and Subregional Office in Budapest, in cooperation with the Central European Initiative, organized a European Conference on Vocational Rehabilitation and Employment of Persons with Disabilities in 2003. Because 2003 was proclaimed European Year of Persons with Disabilities, the year was of special importance for persons with disabilities, in particular in Europe.

The objectives of the Conference were as follows:

- to review the progress of legislation and practice over the past ten years in the field of vocational rehabilitation of persons with disabilities and the improvement of their labour market situation, particularly in countries in the process of transition;
- to discuss issues connected with the adjustment to European Union standards of legislation on the vocational rehabilitation and employment of persons with disabilities;
- to develop recommendations that would provide guidelines for activities and instruments aimed at promoting the vocational activity of persons with disabilities and supporting their employment.



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## 1. Overview

The European Conference on Vocational Rehabilitation and Employment of Persons with Disabilities was held in Warsaw, Poland, on 23-25 October 2003. The Conference was organized jointly by the Ministry of Economy, Labour and Social Policy of the Republic of Poland and the International Labour Organization's Regional Office for Europe and Central Asia in Geneva and Subregional Office in Budapest, in cooperation with the Central European Initiative. The overall purpose of the European Conference was to review the progress of legislation and practice over the past ten years in the field of vocational rehabilitation of persons with disabilities and the improvement of their labour market situation, particularly in countries in the process of transition; to discuss issues connected with the adjustment to European Union standards of legislation on the vocational rehabilitation and employment of persons with disabilities; and to develop recommendations that would provide guidelines for activities and instruments aimed at promoting the vocational activity of persons with disabilities and supporting their employment.

### Themes

The Conference reviewed four main themes: (1) promotion of vocational rehabilitation, training and employment of persons with disabilities: international policies and programmes; (2) achievements of the European Union Member States in the field of vocational rehabilitation and employment of persons with disabilities; (3) from legislation to practice: vocational rehabilitation, training and employment of persons with disabilities in Central and Eastern European countries; (4) recommendations for follow-up in Central and Eastern European countries.

### Participants

The 72 participants from 20 countries came from Albania, Austria, Belarus, Bulgaria, Croatia, Czech Republic, Estonia, Germany, Hungary, Latvia, Lithuania, Moldova, Romania, Serbia and Montenegro, Slovakia, Slovenia, Sweden, Ukraine, United Kingdom and Poland (see Annex 1). There was a slight imbalance among participants, 61 per cent of whom were women and 39 per cent men. Three representatives of disabled people's organizations also attended.

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## 2. Official opening

The Conference was officially opened by Ms. Jolanta Banach, Secretary of State at the Ministry of Economy, Labour and Social Policy, Government Plenipotentiary for Disabled People, and Mr. Friedrich Buttler, Director, ILO Regional Office for Europe and Central Asia.

Ms. Banach welcomed all the participants, and particularly representatives of the International Labour Organization and the Central European Initiative. Referring to the Decision of the European Union Council that established the year 2003 as the Year of Persons with Disabilities, she highlighted the Year's objectives and the contribution of the Conference to their achievement. Ms. Banach expressed her belief that the experts participating in the Conference would take the opportunity to discuss positive and negative experiences in depth, and on that basis to elaborate recommendations and proposals which would stimulate the development of specific solutions.

Mr. Friedrich Buttler said that the Warsaw Conference was a continuation of previous Conferences that had focused on the increasing employability of persons with disabilities, as well as a contribution to the European Year of Persons with Disabilities. Although comprehensive, reliable figures on their employment situation were unavailable, he said that it was widely agreed that unemployment among disabled persons was significantly higher than in the workforce as a whole – at least double the rate of non-disabled persons, but often higher; that, where people with disabilities did work, they were likely to be in low-paid jobs; and that women with disabilities were significantly more disadvantaged than other women and disabled men when it came to acquiring training and gaining access to jobs or other income generating possibilities. The overall result was that people with disabilities often lived in poverty, dependence and social exclusion, and their potential contribution was lost. Mr. Buttler went on to say that measures introduced to promote higher levels of employment of persons with disabilities should be closely related to a coordinated national employment policy and actions undertaken at the local level. He pointed out that anti-discrimination regulations needed to be introduced and that there had to be a commitment to implement them in full.



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### 3. Technical presentations

#### Decent work for people with disabilities – International perspectives

*Barbara Murray, Manager, Equity Issues Group, IFP/Skills, ILO, Switzerland*

##### **Introduction**

The primary goal of the International Labour Organization is to promote decent work for everyone, including persons with disabilities, in the form of productive work in conditions of freedom, equity, security and human dignity. The ILO, in particular through its Disability Programme, has worked for over 50 years to promote employment opportunities for people with disabilities, based on the principles of equal opportunity, equal treatment, mainstreaming and community involvement. The principle of non-discrimination is increasingly emphasized, as disability issues have come to be seen as issues of *human rights*.

Progress towards decent work is reflected in policy statements and laws, as well as in programmes, services and projects initiated at the national and international levels. The main trends in policies and laws are summarized in this presentation, before examining the question of impact and highlighting the key issues that remain to be tackled if decent work is to become a reality for people with disabilities.

##### **Moving towards decent work – International initiatives**

There have been 13 international initiatives concerning persons with disabilities since 1955. These initiatives aim to promote the full participation with equality of disabled persons in all aspects and sectors of society, and point to the need for a society for all. Increasingly, disability is viewed internationally as a form of diversity and people with disabilities are seen as citizens with the same rights as other citizens.

###### International initiatives concerning disabled persons, 1955-2002

- ILO Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99)
- United Nations Declaration on the Rights of Mentally Retarded Persons, 1971
- United Nations Declaration on the Rights of Disabled Persons, 1975
- United Nations International Year of Disabled Persons, 1981
- The World Programme of Action Concerning Disabled Persons, 1982
- United Nations Decade of Disabled Persons, 1983-1992
- ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), and Recommendation (No. 168)
- Council of Europe Coherent Policy for the Rehabilitation of Persons with Disabilities, 1992
- United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities, 1993
- Asian and Pacific Decade of Disabled Persons, 1993-2002 and 2003-12
- Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, 1999
- African Decade of Disabled Persons, 1999-2009
- Proposed United Nations Convention on the Rights of Persons with Disabilities

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In addition to these initiatives specifically concerning persons with disabilities, there have been 13 international instruments and documents dealing with the general population since 1944, including several dealing with human rights, which make explicit mention of disabled persons.

**International instruments and other documents mentioning disabled persons**

- ILO Employment (Transition from War to Peace) Recommendation, 1944 (No. 71)
- ILO Social Security (Minimum Standards) Convention, 1952 (No. 102)
- European Social Charter, 1961
- ILO Human Resources Development Convention, 1975 (No. 142), and Recommendation (No. 150)
- African Charter on Human and Peoples' Rights, 1981
- Additional Protocol on the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988
- United Nations Convention on the Rights of the Child, 1989
- Vienna Declaration and Programme of Action, World Conference on Human Rights, 1993
- Copenhagen Declaration and Programme of Action, World Summit for Social Development, 1995
- Beijing Platform for Action, Fourth World Conference on Women, 1995
- EU initiatives
  - Treaty of Amsterdam, 1997
  - EU Charter of Fundamental Rights, 2000
  - EU Directive on Discrimination, 2000

Finally, since 1948 there have been five other significant international legal instruments dealing with human rights or with discrimination, in which there is no mention of disabled persons, although the provisions of the instruments apply to all citizens.

**Human rights/non-discrimination instruments with no explicit mention of disabled persons**

- Universal Declaration of Human Rights, 1948
- European Convention on Human Rights, 1950
- ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- United Nations Covenant on Economic, Social and Cultural Rights, 1966
- United Nations Covenant on Civil and Political Rights, 1966

## **ILO standards concerning persons with disabilities**

While all ILO standards apply to persons with disabilities either explicitly or implicitly, four instruments have been introduced to deal specifically with disability-related concerns in vocational training and employment.

The Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) was adopted by the ILO in 1983, at the start of the United Nations Decade of Disabled Persons. This Convention, which is a binding international treaty, calls upon States to formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons, based on the principles of equal opportunity and equal treatment, aimed at mainstreaming opportunities and services where possible and appropriate. Consultation should take place with the social partners and with organizations of and for persons with disabilities in developing an implementation strategy for this policy. Measures to be introduced should include vocational guidance, vocational

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training, placement, employment and other related services, using existing services. Provision should be made for the needs of disabled persons in rural as well as urban areas, and also of those in remote communities. Provision should be made for the training and availability of suitably qualified staff. The Convention has been ratified by 73 States to date, with 14 new ratifications since 1999 – a reflection of the level of priority that governments around the world attach to disability issues.

Guidance on the implementation of Convention No. 159 is given through its accompanying Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), as well as through the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), a stand-alone recommendation which was before its time in proposing mainstream training and employment opportunities for people with disabilities, where appropriate. Support is given to ILO member States in implementing the Convention through activities of the ILO Disability Programme – policy advice, training programmes, seminars, meetings, publications and technical cooperation activities. Regular reporting is required and the ILO Committee of Experts monitors the implementation of the Convention.

The ILO code of practice *Managing disability in the workplace*, adopted in October 2001, provides guidance on managing disability issues in recruitment, promotion, job retention and return to work. While Convention No. 159 targets national governments, the code is aimed primarily at enterprises – large, medium-sized or small enterprises, in the private or public sector, in the urban and rural areas of developing or highly industrialized countries, in market economies and in transition economies. The code also addresses employers' organizations, which have an important role to play in the process of promoting disability management, and thus employment opportunities, for disabled persons among their members' companies. They may act as advocates, providing information and advice, as well as opportunities for employers and disabled persons to meet in both formal and informal settings. The code is also aimed at workers' organizations and governments, whose support and cooperation is required if the integration of people with disabilities into the workplace is to be effectively promoted. The role of organizations of and for people with disabilities is likewise part of the mosaic, and an important factor in effective implementation. This is acknowledged in the code, which recommends consultation with these organizations, in addition to consultation with individual workers with disabilities.

The code, which is an agreed set of guidelines on the topic of disability management, adds to the range of standards which the ILO uses in its work to promote the employment of disabled persons, reflecting the significant changes which have taken place in the understanding of disability and in legislation, policies and services concerning disabled persons since 1983.

## Proposed United Nations Convention

A number of attempts have been made during the past 15 years to elaborate a United Nations Convention on the Rights of Persons with Disabilities. In December 2001 the United Nations General Assembly decided to establish an ad hoc committee to consider proposals for such a Convention. The terms of reference of this committee are:

... to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development.

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The work of this committee commenced in July 2002, and the drafting of the Convention is expected to start in June 2003, at the second meeting of the ad hoc committee. Regional meetings will take place in preparation for this in the early months of 2003. The ILO has commissioned a paper on “The right to decent work of persons with disabilities” as a contribution to the deliberations taking place in preparation for the elaboration of this Convention. The paper is intended to be of specific relevance to those involved in drafting the provisions concerning employment and work in the proposed Convention. By examining the development over time of the “right to work” of disabled persons, the way in which this matter has been dealt with in international instruments and national legislation to date, and the experience in implementing employment and work opportunities, it is hoped that the paper will enable those involved in the preparation of the proposed United Nations Convention to build on achievements so far.

### Impact of international initiatives

There has been considerable support for international initiatives and instruments concerning persons with disabilities, not only from governments but also from disabled persons’ organizations, non-governmental organizations and, to a certain extent, from employers’ and workers’ organizations. This is clear from the widespread adoption of the goal of full participation with equality, and the development of national policies and programmes to give effect to this objective. It is also reflected in campaigns to develop a United Nations Convention on the issue at the national level, with organizations of and for disabled persons playing a key role in the process.

Although considerable progress has been made at the international level in promoting opportunities for disabled persons, international action is largely directed at assisting and supporting national efforts, as it is with the individual countries that the primary responsibility lies.

### ***Moving towards decent work – National legal frameworks***

In line with the policy developments that have taken place internationally, training and employment opportunities for people with disabilities have changed dramatically at the national level in recent years, reflecting a strong and growing movement towards promoting the inclusion of disabled persons in all sectors of society. In the field of employment there is much greater emphasis than before on the promotion of opportunities in competitive employment, with supports where required, and less emphasis on providing work opportunities in special centres. National laws now in place to promote employment opportunities for people with disabilities include legislation on quota obligations, employment equity, non-discrimination and job retention.

***Quota schemes*** entail an obligation on companies of a certain size to employ a specified percentage of people with disabilities in their workforce. If employers do not fulfil this obligation, many countries require them to pay a contribution into a central fund to be used to promote the accessibility of workplaces or for vocational rehabilitation purposes. Some countries have recently introduced new options for employers, in an attempt to promote the effectiveness of such schemes in leading to jobs for disabled jobseekers, rather than monetary contributions to the special funds. In France, for example, employers may enter into an agreement with the State concerning the recruitment, training or integration of workers with disabilities, or their adaptation to technological change, in partial fulfilment of their quota requirement. Countries with this type of legislation include many European countries, such as France, Germany, Poland and Italy, several Asian countries, such as China, Japan and Thailand, and several African countries, including Mauritius and the United Republic of Tanzania (Mainland).

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*Anti-discrimination laws* make it unlawful for employers to discriminate on the basis of disability in recruitment, promotion, dismissal and other aspects of employment, or in training programmes. These laws generally require employers and service providers to make *reasonable accommodation* for any specific requirements they may have and, in some cases, to develop affirmative action plans. Employers and service providers may be required to demonstrate compliance with the law in tendering for government contracts. Countries with this type of legislation include Australia, Canada, Namibia, New Zealand, the Scandinavian countries, South Africa, the United Kingdom and the United States.

*Job retention laws* oblige employers to retain a worker who acquires a disability while in employment. In some cases this obligation applies where the worker's disability arises from a work-related accident, injury or disease, while in others it also applies where the disability is not work-related. Under this group of laws workers are encouraged to return to work, after retraining if necessary. In some cases employers are required to play an active role in the early detection of disability and the development of rehabilitation programmes.

Provisions concerning the training of persons with disabilities are made in equity/anti-discrimination laws, constitutional provisions and laws or regulations relating to special training centres. Quota laws generally do not make provision for training. In some countries, the decision to promote the access of disabled persons to mainstream training centres is made by government decision rather than laid down in formal provisions.

## **Outcome**

While it is easy to document the shifts that have taken place in disability-related policies and legislation, it is less easy to document the outcome of these innovations, in terms of impact on opportunities open to disabled persons. Systematic evidence on the impact of employment-related legislation is available for some countries only. More commonly, there is a lack of impact assessment. It is clear that in the move to promoting the civil rights of persons with disabilities, considerable progress has been made at the legislative and policy levels and in some areas of service provision. It is also clear, from what evidence has been compiled, that progress has not been as fast, as easy or as extensive as had been expected.

### What determines effectiveness?

In addressing the question of effectiveness, several key aspects of legislation are examined here:

- the model of disability;
- the concept of equality;
- the location of the legal provisions;
- implementation measures;
- enforcement mechanisms.

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## Model of disability

Where disability is understood as a “moral” matter, associated with shame or guilt, the policy response is generally one of care by the family or by religious institutions, and the solutions often involve charity. The legal approach associated with this understanding of disability has been described as “Charity Law”. This type of law (often called “Poor Law”) aims to alleviate complete destitution and provides for basic services in segregated settings that are often very stigmatized.

Where disability is understood as a medical matter, the policy approach entails care and the provision of services in separate institutions, and the solutions involve individual rehabilitation so as to enable a person to live life as *normally* as possible. Legislation based on this understanding of disability provides for social security, social protection and health services. More fundamentally, this type of legislation aims to provide compensation to an individual for the disability, and service provision is in segregated settings, sometimes stigmatized. In relation to employment, quotas have been provided for under this approach, where the underlying assumption is that people with disabilities are lower-prospect workers with a lower productive capacity than non-disabled persons. Enforcement mechanisms associated with quota schemes often give the impression that people with disabilities cannot be employed on merit, and in some cases failure to meet the quota obligation is a criminal offence.

Where disability is seen as a social construct, the policy approach emphasizes integration or inclusion and the solutions involve the removal of social barriers – in the built environment, in laws and policies, in the way activities are organized, and in the assumptions people make. Equity/anti-discrimination laws are the type of legislation associated with this approach. Such laws focus on tackling structural inequality and societal exclusion, treat disability as a human rights issue, seeing people with disabilities as citizens with citizenship rights, and require that reasonable accommodation be made to cater to any special requirements they may have. The emphasis is on mainstreaming. The laws may cater specifically to people with disabilities, or to a number of disadvantaged groups.

More recently, taking into account the need to improve the effectiveness of quotas in promoting employment for disabled persons, some countries (e.g. France) have introduced reforms to focus more on the removal of social barriers in the workplace, and to provide a wider range of options for employers, including the option of providing for training on the job (apprenticeships), thus making the quota scheme more of an affirmative action tool.

## Concept of equality

In looking at legislation in order to analyse its effectiveness in promoting opportunities for people with disabilities on the ground, it is important to examine the concept of equality as it is defined in the laws. A judicial, formal concept of equality makes direct discrimination illegal and underlines the notion that disability is not the problem, but it does not require accommodations or adjustments be made. Where equality is viewed in terms of results, or outcome, due account must be taken, for example, of any additional costs that disabled workers incur, when determining whether or not they receive equal pay. However, this concept of equality does not give a clear indication of whether the State or the private sector is responsible for meeting the needs of disabled persons, and it may give legitimacy to separate service provision for disabled persons.

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Another way in which equality may be conceptualized is through equality of opportunity. This concept provides for equal chances, but not necessarily equal results. In this way of looking at equality, both stereotypes and structural barriers are seen as obstacles to inclusion; disability is ignored if stereotypes are the basis for action, and is considered if changes to the social or built environment are necessary to promote access and inclusion. This is nowadays the concept most frequently encountered.

### Legal approach

In considering the effectiveness of laws in practice, another dimension which needs to be examined is the legal approach adopted: whether the provisions are located in criminal law, constitutional law, civil law, labour law or social welfare law. **Criminal law provisions** – involving fines and imprisonment – have an impact only if it can be proved that the person (e.g. the employer) had bad intentions. But in practice this can rarely be proved, since persons frequently discriminate without having hostile feelings towards disabled persons. Such provisions therefore do not seem to have much impact. **Constitutional law provisions** usually prohibit discrimination in general terms, without defining it specifically. As the constitution is the highest law in the land, constitutional amendments have to be taken into account by the judiciary and thus may lead to reform in disability case law. But this type of provision does not give substantive rights to citizens, and tends to be broad and vague. Moreover, the procedure for bringing a case to court is very complicated, and may require substantial resources. Nonetheless, such provisions have more impact than criminal law. In **civil and labour legislation** the scope of the law is set out in greater detail, precise definitions are given (e.g. of what constitutes discriminatory practice) and provision is made for enforcement. This is the most effective location for laws relating to the rights of people with disabilities. Where provision for people with disabilities is made in **social welfare legislation**, the law is usually vague, sometimes combining limited or vague rights-based provisions with traditional provisions on disability prevention and rehabilitation, but often focusing exclusively on social services and integration principles rather than on rights.

Some countries take what has been described as a “twin track” approach, combining provisions in the labour law with additional provisions in laws specific to people with disabilities or other vulnerable groups.

### Implementation measures

Many governments have introduced a range of measures to support the implementation of policies and laws. These include financial support for employers to serve as an incentive or to ensure that the employment of the person concerned does not cause any additional cost or other problems to the employer, and support services to ensure that the relevant technical advice is provided and that any problems are quickly resolved. Support is also provided for workers with disabilities, including personal assistance services, communications services and ongoing help with problem resolution.

### Enforcement mechanisms

Enforcement of the law may be foreseen through the labour inspectorate, through an administrative monitoring system such as a national disability council or an equality commission which caters to the population at large, or through the judicial system in the criminal courts, civil courts (dealing with a variety of cases) or labour law courts (dealing specifically with labour-related topics).

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## ***Key issues***

It is generally agreed that, while considerable progress has been made in recent decades in the development of policies and laws which aim at promoting equality of opportunity for people with disabilities, these have not yet had a significant impact in improving the lives of people with disabilities. Some of the reasons for the ineffectiveness of the progressive laws which have appeared on statute books around the world lie in the legislative framework, arising from the coexistence of laws on the statute books which are based on different concepts of disability and make conflicting provisions for disabled persons. Other reasons lie in the inappropriate location of the law, or in the lack of adequate enforcement mechanisms. Provision for affirmative action appears to be a key factor in increasing the impact of employment-related legislation and, importantly, the involvement of the social partners (both employers' and workers' representatives) and representatives of and for disabled persons in the process of designing law and policy.



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## The Council of Europe's activities in favour of people with disabilities

*Ms. Muriel Grimmeissen, Council of Europe, Strasbourg*

Thank you for inviting the Council of Europe to participate in this Conference. I am very pleased to take this opportunity to strengthen our cooperation with the International Labour Organization in favour of people with disabilities. This cooperation was particularly in evidence when we prepared a report on *Employment strategies to promote equal opportunities for persons with disabilities on the labour market* (published in 2000).

### **Ministerial Conference**

2003 has been an important year for us. The Second European Conference of Ministers responsible for Integration Policies for People with Disabilities was held in Malaga (Spain) on 7 and 8 May 2003.

The general theme of this Conference was “Improving the quality of life of people with disabilities: Enhancing a coherent policy for and through full participation”.

The ministerial Conference provided a timely opportunity to take stock, consider future approaches, and reflect on disability as a human rights issue. It set the agenda for the next decade by identifying key areas of action where progress has yet to be achieved. It took a holistic approach to the issue of including disabled people as full members of society. Ministers discussed methods of promoting citizenship and full participation for disabled people through effective legal and policy measures and through innovative approaches in service provision. They examined the fundamental areas upon which future disability policies should be built.

Particular consideration was given to **key policy areas such as education and employment**, and to crucial factors which determine the quality of life of all Europeans, such as new technologies. Specific attention was paid to disabled women and to people with disabilities who require a high level of support.

Ministers encouraged the move from a medical approach to a human rights-based approach, from charity to rights, and from:

- functional limitations to functional capacities;
- assessing disabilities to assessing abilities;
- institution-based care to life in the local community;
- the medical model of service delivery to individual support;
- care services to support services;
- a service-driven approach to a user-driven approach;
- specialized measures to integrated measures;
- rehabilitation to empowerment of the individual;

- 
- compensation for individual impairments to elimination of environmental obstacles;
  - passive income-replacement measures to active measures intended to foster participation.

In short, they encouraged a shift in focus **from the patient to the citizen**.

A political declaration entitled “*Progressing towards full participation as citizens*” established the principles and guidelines that are to govern the work of European governments. It announced that an ambitious, detailed but flexible **European Action Plan** would be drawn up for people with disabilities, taking into account the considerations raised at the Conference. It will constitute a new European policy framework, based on human rights and partnership between different actors, identifying strategic objectives and priority issues in order to achieve full citizenship and active participation by people with disabilities in the life of the community, through workable, affordable and sustainable policies.

Twenty international disability NGOs were invited to participate in the Conference, and a European NGO Forum took place in Madrid on 8 April, where the NGO Declaration “From words to deeds” was adopted.

The **Committee on the Rehabilitation and Integration of People with Disabilities**, which has coordinated various initiatives in standard setting and policy formulation, started discussion on the drafting of an Action Plan in October 2003 at its first meeting after the ministerial Conference. Organizations of people with disabilities will become active partners in the elaboration and implementation of the Plan.

## **Legal instruments**

The keystone of our work is the **European Convention on Human Rights**, to which all member States must subscribe. Its article 14 prohibits discrimination. It reads:

*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*

Although “disability” is not mentioned explicitly in the list of grounds on which discrimination is prohibited, it is covered by “other status”.

Closely associated with the Convention is the European Social Charter (1961). This document sets out the social rights of European citizens.

Non-discrimination provisions are contained in the Preamble to the Social Charter. One article in particular is of relevance to people with disabilities (article 15). “*The right of physically and mentally disabled persons to vocational training, rehabilitation and social resettlement*”.

The Charter was revised in 1996 to take account of social changes. The new document updates and strengthens the rights guaranteed by the Charter and includes new rights and more progressive provisions.

The non-discrimination provision of the revised Charter reads as follows:

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*Part V – article E – Non-discrimination*

*The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, **health**, association with a national minority, birth or other status.*

The scope of article 15 has been extended considerably and now goes beyond employment issues to proclaim the right of persons with disabilities to independence, social integration and participation in the life of the community.

With regard to the rehabilitation and integration of people with disabilities, the Council of Europe's major instrument is Recommendation No. R(92)6 on "A coherent policy for people with disabilities". It offers the national authorities of all 45 member States a model framework for legislation on rehabilitation and integration in all spheres of life, based on full citizenship and independent living.

## **Gender issues**

As mentioned before, proposals to enhance the integration of women with disabilities were discussed at the ministerial Conference as a cross-cutting issue.

A report on *discrimination against disabled women* was presented at the Conference and will be published by the end of this year. It recognizes that, to date, the situation of women with disabilities in Europe has not been given the visibility and political importance it deserves and requires. Although problems relating to women, on the one hand, and problems relating to people with disabilities, on the other, are being addressed separately with increasing attention and urgency, no serious approach has yet been taken to tackle the dual form of discrimination to which women with disabilities are subjected.

A number of areas were covered where disabled women are discriminated against. Nevertheless, on the basis of their own experience the Drafting Group members (most of them are disabled) felt that the socio-economic position and security (irrespective of whether this position was based on employment or on social benefits) was a key issue. **Employment is of prime importance as a basis for independence.**

The needs of women with disabilities and those of men with disabilities are perceived differently. While it is accepted that men must have access to work, there is no such consensus about women with disabilities, who tend to be steered towards a passive existence. All too often the prevailing idea is that employment fulfils a different role for women with disabilities than it does for men. For women, work would appear to represent a means of filling time rather than offering a guarantee of independence. Occasionally, women with disabilities also develop this negative idea. Women with disabilities are more likely to be employed in low-status, lower-paid jobs with poorer working conditions. Lack of self-esteem and education further complicates the matter.

In the field of employment, requirements regarding **access to technical aids** place women in a particularly disadvantageous situation, as for example when such aids are on offer only for full-time jobs or where there is a minimum wage threshold.

The issues of **job quality, job security and promotion possibilities** for women with disabilities were explored. Figures show that the rate of unemployment among women with disabilities is higher than among their male counterparts, mirroring the situation among men and women without disabilities.

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The value of quotas was discussed and their effectiveness questioned. It was recommended that **employment support schemes including quota systems** should be adapted to the needs of women with disabilities and evaluated in terms of how they improve their employment situation.

The importance of **reconciling employment and family life**, which is more difficult for a woman with disabilities, was emphasized. Additional support should be made available to women with disabilities to enable them to work, including access to child care, care for other dependants, transport to their place of work, and access to personal assistance.

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## The activities of the Central European Initiative in favour of people with disabilities

*Ms. Eva Bosakova, Central European Initiative*

The Central European Initiative is the oldest and largest regional cooperation initiative to have emerged in Central and Eastern Europe since the fall of the Berlin wall. The CEI wants to encourage dialogue and cooperation in the region; to bring its non-EU members closer to the European Union and to avoid the creation of new divisions between the advanced and the less advanced countries. The CEI is an intergovernmental organization. It operates through the annual meetings of Heads of Government (the next summit will be held under Polish presidency in Warsaw in a month's time) and of Ministers of Foreign Affairs, who provide an overall guidance. The Committee of National Coordinators is responsible for the definition, coordination and implementation of the programme of activities.

A number of international events co-sponsored by the CEI are organized in a variety of fields on the initiative of the member States, often in the context of CEI cooperation activities. The European Conference on Vocational Rehabilitation and Employment of Persons with Disabilities is one of them.

Seventeen working groups are in charge of implementing the CEI Plan of Action adopted for a two-year period. One of them is the CEI Working Group on Human Resource Development and Training. Allow me on behalf of Ms. Kopicová, head of this Working Group, to wish every success and interesting results for this Conference, which is important for future activities in the field of employment of disabled people.

I would like to inform you of the Working Group's activities, which can help find more effective approaches to the employment of persons with disabilities. The cooperation activities implemented within the CEI Working Group on Human Resource Development and Training are guided by the main principles and objectives of the CEI strategy. The prime task of the working group is to identify appropriate cooperation projects to be submitted to the Committee of National Coordinators for approval and financing.

The projects identified by the Working Group are designed to promote and enhance cooperation among CEI Member States. They are accessible in principle to all member countries and involve them by their participation. The projects aim at the creation of possibilities for human resource development as a constituent element of economic and social development of societies in Europe.

Priority will be given to projects relating to:

- European integration;
- macro-economic stabilization policy;
- legal and economic aspects of the transformation of selected economic sectors;
- human resource development in the broadest sense.

In implementing these goals the working group will avail itself of meetings, conferences, seminars, workshops and training courses offered by different countries for the sharing of experience in economic reform, the discussion of key issues of transformation and integration and the provision of assistance to CEI countries in their preparation for future accession to Euro-Atlantic structures.

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The plan of activities for 2002-03 includes various activities in the framework of the four themes mentioned. Some of the activities of this plan have already been implemented. I would like to inform you about two such activities, which are connected with the topic of this Conference. Both were organized by experts from the Czech Republic.

The first was a workshop entitled “Specific problems of the labour market, with focus on the most disadvantaged groups of the unemployed”. The main objective of this workshop was to provide all workshop participants with information on how labour market conditions are created in the labour market of the Czech Republic, and on existing active employment policy instruments and experience with these tools in the country. Particular attention was devoted to topical problems of the most disadvantaged groups among the unemployed and to the challenges of the labour market in the light of the planned accession of the Czech Republic to the European Union.

The main topics discussed at the workshop were:

- general active employment policy measures implemented by labour offices on the regional labour markets;
- measures for the support of employability of disabled people;
- case studies from EU-supported programmes focusing on population groups most severely threatened by unemployment (Phare, PALMIF, Leonardo da Vinci, EQUAL).

The participants were given the opportunity to become familiar with the activities of the Labour Office in Tábor (middle-sized region) and to see some specific projects aimed at disadvantaged groups on the labour market. When presenting areas of employment policy, emphasis was placed on the opportunity to judge every tool or conceptual document from the viewpoint of the real situation in each participating country. The prospects for labour market development in the Central and Eastern European countries are closely linked to the challenges posed by accession to the European Union. The experience of the EU countries could inspire similar concepts in the CEI countries. Of course, this experience cannot be directly copied; rather it should be applied in a flexible manner to the conditions prevailing in each country.

This workshop was a follow-up to a seminar on “**Current problems of the labour market**” which was held in 2001 with the participation of representatives of ten countries from the CEI.

On the theme of “European integration” the Czech Republic organized a seminar on “Preparation of ESF-type projects for the support of employment and human resource development”. The aim of this seminar was to present to CEI specialists the Czech Republic’s experience with the preparation of ESF projects supporting employment and human resource development.

The main themes of the seminar were:

- Framework of policy and programmes (European Employment Strategy, National Action Plan of Employment, National Action Plan of Social Inclusion, priorities of ESF policy and financing, Operational Programme of Human Resource Development) as they relate to disabled people.

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- Specifics of the preparation of projects as regards five areas of ESF financing:
    - active employment policy;
    - social inclusion;
    - adaptability (competitiveness) of enterprises and employees;
    - lifelong learning;
    - equal opportunities for women and men.
  
  - Model types of both themes were presented.

A very important feature of the abovementioned activities was networking, dialogue and the sharing of experience among participants. Another important aim was to familiarize the participants with the conditions prevailing within the same context in the EU and to create a platform for discussion, exchange of experience and international cooperation.

At the first meeting of the year the Working Group will adopt its work programme, which will contain activities and projects to be discussed and forwarded to the Committee of National Coordinators for approval and financing. The next meeting will be held at the beginning of 2004 and will discuss proposals regarding major activities and projects connected with the topic of this Conference.

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## Achievements in the employment and vocational rehabilitation of disabled persons in Germany

*Hartmut Haines, Ministry for Health and Social Security, Germany*

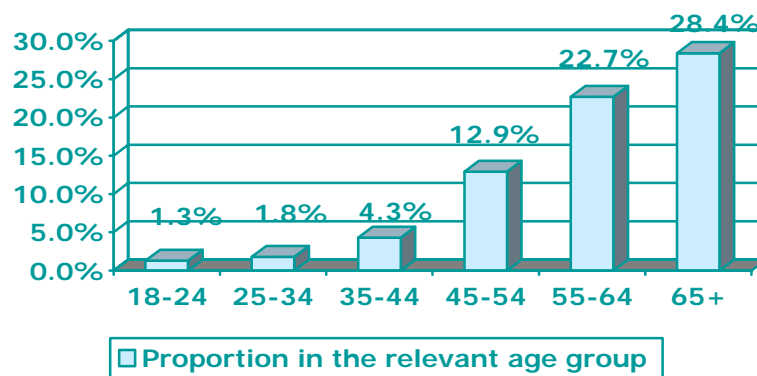
### **Guiding principles of rehabilitation and participation policy**

- Participation of disabled persons in society.
- Intervention at the earliest possible stage.
- Individual assistance (tailored to actual needs).
- Taking of action irrespective of the cause of disability.

### **Disability and intervention**

- Prevention as far as possible; physical, mental or psychological functioning differs from the functioning which is typical for the respective age (“impairment”).
- Intervention as far as possible; restrictions of functioning on activity level not merely of a temporary nature (“activity limitation”).
- Intervention as far as possible; adverse effects on participation in the life of society (“participation restriction”).
- Compensation by technical aids/assistance/pensions as far as necessary.

Figure 1. Proportion of disabled persons in the relevant age groups



### **Factors contributing to the participation of disabled persons**

- Information of all persons involved.
- Tailoring the living conditions of disabled persons to their requirements.
- “Necessary help” in the form of (public) benefits.



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- Personal commitment/motivation of those concerned.
  - Participation management.

### ***Workforce participation of disabled persons – Different strategies***

Aim:

- for those who are employed: to keep employment;
- for those who are not employed: to find employment.

### ***Responsibility for workforce participation***

- Employers:
  - equal opportunity for disabled persons;
  - no disadvantages for these persons.
- Public:
  - “moral” support for the employers;
  - common (public benefit) financing of extraordinary “burdens”.

### ***Social Code Book #9***

Part 1: Common regulations on participation-oriented benefits (applicable uniformly to funds concerned)

Part 2: Special regulations to promote participation of severely disabled persons in working life

### ***General aim of participation-oriented benefits***

- Promote self-determination and equal opportunity for participation in society.
- Avoid disadvantages and counteract them.
- Take into consideration the special needs of women and children who are disabled or threatened by a disability.

### ***Participation-oriented benefits by (groups of) funds***

#### ***Specific aims of participation-oriented benefits***

- Avert, eliminate, alleviate the disability or prevent its aggravation or reduce its effects.
- Avoid restrictions in earning capacity and need of care.

- 
- Secure participation in working life in accordance with inclinations and abilities.
  - Promote the development of the full personality and facilitate full participation in society and a life as independent and self-determined as possible.

### ***Necessary benefits***

- No detailed benefit list.
- What helps to reach the aims?
- No better way to reach the aims.
- Time is a quality factor.

### ***Special provisions for severely disabled persons***

- Special protection against unlawful dismissal.
- Duty to fill 5 per cent of the positions with severely disabled persons (or to pay a compensatory levy).
- Elected representatives to protect the interests of all severely disabled persons at work.
- Supplementary benefits for participation in working life.

### ***Employers' duties vis-à-vis severely disabled persons***

- Not to put them at a disadvantage (discriminate).
- Workplace accommodation.
- To enable them to develop fully and use their knowledge and skills.
- To promote vocational advancement.

### ***Shop-floor representatives of severely disabled persons***

- Fully informed and heard; measures without their involvement must be suspended.
- Included in monthly discussions between employer and representatives of employees' interests.
- Consulted as to whether vacancies are suitable for severely disabled persons.
- Cooperate closely with Federal Employment Service and Regional Integration Service and keep in touch with them.

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### ***Cooperation on company/administration level***

- Between employers and representatives
  - of severely disabled persons; and
  - of employees' interests.
- Between employers and representatives; and
  - participation-oriented benefit funds;
  - Regional Integration Service.

### ***Incentives for workforce participation***

- Integration services in every district to support employers and employment services in "problem cases".
- Benefits for necessary workplace assistance.
- Part-time work for those who need it because of their disability.
- Reduction of the quota for the employment of severely disabled persons from 6 per cent to 5 per cent.
- If possible, reduction of the number of unemployed severely disabled persons by 25 per cent.
- Different compensatory levy rates according to quota fulfilment.
- Campaign "50,000 jobs for severely disabled persons".

### ***Integration agreements***

- Between employers and representatives:
  - of severely disabled persons; and
  - of employees' interests.
- Participation of Regional Integration Service if desired.
- On integration of severely disabled persons, e.g.:
  - personnel planning;
  - work(place) organization;
  - gender mainstreaming.

### ***Workplace prevention***

- In case of difficulties or problems at work.
- Employer discusses with representatives:

- 
- of severely disabled persons; and
  - of employees' interests.
  - Possible solutions for continuation of the employment, if a (severely) disabled person, are:
    - three months sick – out of work; or if
    - employment at risk for medical reasons;
    - with consent of the disabled person.
  - Employer discusses possible solutions with representatives of severely disabled persons and of employees' interests.

### ***Quota results 2001/2000***

- Diminished number of employers under the quota.
- Diminished number of counted workplaces under the quota.
- More severely disabled persons' workplaces under the quota.
- Higher revenues from the compensatory levy.
- Higher levy revenues from "critical" employers.

### ***Employment results***

- 150,000 new jobs for severely disabled persons within three years
  - 55,000 of them with financial support.
- Unemployment of severely disabled persons cut
  - by 45,305 (from 189,766, October 1999, to 144,461, October 2002) = 24 per cent.
- Development of unemployment rate for severely disabled persons better than for other groups.

### ***Discussion of results***

- Effects:
  - surely influenced by the new legal instruments; but
  - to a large extent, by the results of "law enforcement";
  - including the campaign.
- "Re-implementation date" of 6 per cent quota deferred for one year (to 1 January 2004).

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## ***Government report***

- Government report June 2003:
  - to the parliamentary assemblies;
  - on the employment situation of severely disabled persons;
  - proposes/names measures to be taken.

## ***Measures discussed***

- Between disabled persons' organizations, employers, unions, regional governments, service providers and others.
- Broad consensus on continuing "active policy".
- Debate on the right way to act.
- Tackling the "usual suspects".

## ***Management of disability at the workplace in Germany***

- The tools exist.
- The tools are looking for those who can implement them.

## ***General aim of workforce participation***

- Full participation.
- Unemployment rate for disabled persons (May 2003: 16.6 per cent).
- Not higher than for non-disabled persons (May 2003: 10.4 per cent).

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# **A report on the law and practice in relation to vocational rehabilitation and the employment of disabled people in Great Britain**

*Michael Buckley, Department for Work and Pensions, the United Kingdom*

## **Introduction**

This report provides a brief overview of the approach taken in Great Britain to encourage and support more opportunities for disabled people to find and keep jobs. It looks first at the legislative framework that underwrites our approach. It provides the definitions of disability, to identify those clients of working age that the Government is seeking to help. It provides statistical data on disabled people and their economic activity. And it describes current programmes provided specifically to support disabled people, and the work being undertaken to test new approaches that can provide work opportunities for people as a real alternative to long-term inactivity.

## **Legislative framework and trends**

The Disability Discrimination Act 1995 (DDA) outlaws discrimination against disabled people in employment, but also in other areas of life such as education and the provision of goods and services.

Under the employment provisions (Part 2) of the DDA it is unlawful for an employer to treat a disabled person less favourably than another person on account of their disability, unless this can be justified. An employer must also consider whether a “reasonable adjustment” to premises, working practices or other aspects of a job might enable a disabled person to enter or remain in employment. Examples of “reasonable adjustments” might include a change in working hours, the reallocation of some duties to another worker, or the provision of a piece of specialist equipment.

Current exclusions from Part 2 exist for employers with fewer than 15 staff, plus police officers, firefighters, prison officers, and certain other occupations. In implementing the requirements of article 13 (Employment Directive), regulations were made in July 2003 that will, from October 2004:

- end the exemption from the DDA of small employers;
- cover occupations such as police officers and prison officers;
- extend protection to disabled partners in business partnerships;
- outlaw harassment in employment;
- place the burden of proof on employers in DDA tribunal cases;
- outlaw discriminatory job advertisements, giving the Disability Rights Commission enforcement powers.

An announcement was made in January 2003 that a draft disability bill will be published later this year, and that it is intended that this bill undergoes pre-legislative scrutiny. The exact scope of the bill is still being finalized but measures under consideration include:

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- extending the definition of disability to cover more people with HIV and cancer;
  - introducing a duty on public bodies to promote equality of opportunity for disabled people;
  - extending duties for service providers under Part 3 of the DDA in such areas as the function of public bodies, transport operators and premises; and
  - covering membership of larger private clubs.

Legislation passed in July 1999 established the Disability Rights Commission (DRC), which opened for business on 25 April 2000. The DRC is an independent body, which exists to work towards the elimination of discrimination against disabled people. It provides support and advice to disabled people, employers and the general public on a wide range of issues relating to disability. In its first three years the DRC's Helpline received some 242,000 contacts and referred some 6,600 cases raised by disabled people to the DRC's caseworkers and the Advice and Networks Team. The DRC also provided legal representation in over 160 cases of discrimination against disabled people.

### ***Definition of disability – People of working age***

Great Britain regularly uses three definitions of disability in statistical analysis, to identify appropriate client groups and measure progress:

- Disability Discrimination Act (DDA);
- work-limiting disability;
- Public Service Agreement (PSA).

*[Note – Falling within these definitions does not correlate with entitlement to incapacity or disability benefits, for which specific entitlement conditions will apply.]*

The Disability Discrimination Act (DDA) 1995 defines “disabled person” as a person with a “physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities”.

*Physical impairment:* This includes, for instance, a weakening of part of the body (eyes, ears, limbs, internal organs, etc.) caused through illness, by accident or congenitally. Examples would be blindness, deafness, paralysis of a leg and heart disease.

*Mental impairment:* This includes a clinically well-recognized mental illness and what is commonly known as a learning disability.

*Substantial:* Put simply, this means that the effect of the physical or mental impairment on ability to carry out normal day-to-day activities is more than minor or trivial. It does not have to be a severe effect.

*Long-term adverse effect:* The effect has to have lasted, or be likely to last, overall for at least 12 months and the effect must be a detrimental one. A person with a life expectancy of less than 12 months is covered if the effect is likely to last for the whole of that time.

*A normal day-to-day activity:* This is something that is carried out by most people on a fairly regular and frequent basis, such as washing, eating, catching a bus or turning on a television. It does not mean something as individual as playing a musical instrument to a professional standard or doing everything involved in a particular job.

*The work-limiting definition* of disability includes people who, in their own opinion, have an illness or disability likely to last for 12 months or more that limits either the amount or the type of work they can do.

[*Note – These definitions are not mutually exclusive. There is a large degree of overlap between the Disability Discrimination Act and work-limiting disability.*]

*The Public Service Agreement (PSA) definition* of disability, used in setting and monitoring progress of government objectives for working-age disabled people, encompasses individuals who, in their own opinion, have a work-limiting disability and/or are disabled as defined within the Disability Discrimination Act.

## Statistics

Table 1. The number of working-age people with disabilities

	PSA disabled	DDA disabled	Work-limiting disability
Number of working-age disabled people	6 880 000	5 650 000	5 420 000
Disabled people as a percentage of all working age	19%	16%	15%

Table 2.<sup>1</sup> Economic activity of disabled people: Employment status of working-age people according to whether they are disabled by the PSA definition

		PSA disabled	Non-disabled	All working age
Employed	Total	3 380 000	23 680 000	27 060 000
	Percentage	49%	81%	75%
Unemployed	Total	300 000	1 100 000	1 400 000
	Percentage	8%	4%	5%
Active	Total	3 690 000	24 780 000	28 470 000
	Percentage	54%	85%	79%
Inactive	Total	3 200 000	4 490 000	7 690 000
	Percentage	46%	15%	21%

<sup>1</sup> Notes:

Labour Force Survey, Spring 2003; rounded to the nearest 10,000; working age only; figures for Great Britain; using PSA disabled.

**ILO unemployed** are those who are out of work, want a job, have actively sought work in the previous four weeks and are available to start work within the next fortnight or are out of work and have accepted a job that they are waiting to start in the next fortnight. The unemployment rate is the percentage of the economically active people who are unemployed.

**The economically active** population are those who are in employment or unemployed. The economically inactive are those who are not.

**How data is collected:** The Labour Force Survey (LFS) is a survey of households living at private addresses in Great Britain. The survey is published every quarter with a sample of 57,000 United Kingdom households. The population covered is all people resident in private households, all persons resident in National Health Service accommodation and young people living away from the parental home in a student hall of residence or similar institution during term time.



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## ***Current work-focused programmes and financial incentives and support, specifically designed to help disabled people***

Jobcentre Plus (part of the Department for Work and Pensions) is the main government agency for delivering and supporting job opportunities. Disabled people are eligible for most mainstream services it provides, but there is also a range of provision specifically for disabled people. Online information about all these services is available at: <http://www.jobcentreplus.gov.uk/cms.asp?Page=/Home/Customers/HelpForDisabledPeople>.

Jobcentre Plus programmes specifically designed to help disabled people find and keep work include:

### **Employment assessment**

An employment assessment is provided to help disabled clients find out how their disability or health condition affects the type of work or training they want to do. It can also help them identify their abilities and strengths. At the end of an assessment the client has an action plan of steps they need to take to achieve their job goal.

The assessment consists of an in-depth interview with a Jobcentre Plus disability employment adviser. Clients may be referred to an occupational psychologist for a further assessment of their employment needs. The disability employment adviser and occupational psychologist can provide specialist support to help disabled people get or keep employment.

At the conclusion of the assessment, the disability employment adviser and the client discuss and agree on an action plan to help the disabled person achieve their job goals. Part of the action plan may include Work Preparation (employment rehabilitation) or training.

### **Work Preparation**

Significant developments are currently taking place within the Jobcentre Plus Work Preparation programme. These aim to bring together elements of work-focused support combined with health-focused rehabilitation.

Work Preparation is an individually tailored programme that helps participants to try out their readiness for employment in a work environment and overcome barriers associated with disability that cannot be effectively met by other programmes or provision.

Jobcentre Plus is currently working with providers from the health services to deliver Work Preparation programmes that will focus particularly on people well-distanced from the labour market, and whose disabilities are established and stable, such as back pain, brain injury and mental illness. These interventions are delivered largely by physiotherapists, occupational therapists and psychologists in close conjunction with disability employment advisers from Jobcentre Plus.

### **New Deal for Disabled People**

The New Deal for Disabled People aims to help people on disability and health-related benefits to move into and retain paid work through a network of job brokers. Organizations offering job broker services come from the public, private and voluntary sectors. The New Deal for Disabled People is entirely voluntary so clients can decide whether or not to participate. All job brokers tailor their services to meet the needs of individual customers.

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There are currently around 60 job brokers in operation throughout England, Scotland and Wales. The job brokers provide advice about how to get a job, help with matching clients' skills and abilities to what employers need, and provide support on starting work. Job broker services can include support with completing application forms and writing CVs, interview preparation and advice on vacancies available locally. They also work closely with providers of training and provide other assistance where the customers need additional help.

## Access to Work

Access to Work provides advice and practical support to disabled people and their employers to help overcome work-related obstacles resulting from disability. As well as giving advice and information to disabled people and employers, Access to Work pays a grant, through Jobcentre Plus, towards any extra employment costs that result from disability. It applies to any paid job, part-time or full-time, permanent or temporary.

For example, it can help pay for:

- communicator support at interview (CSI), which meets the full cost of hiring an interpreter to remove barriers to communication at interview;
- a support worker: types of support might include reading to a visually-impaired person, communicating for a hearing-impaired person via sign language (other than at interview which is covered by CSI), providing specialist coaching for a person with learning difficulties or helping a person with care needs;
- special aids equipment to help a disabled person function in the workplace;
- adaptation to premises or to existing equipment;
- help with the additional costs of travel to, or in, work for people who are unable to use public transport.

All help is for a maximum period of three years, after which the Access to Work Business Centre will review the support and the circumstances. Access to Work may provide help for a further period if clients continue to be eligible for help under the rules that then apply.

## WORKSTEP

WORKSTEP provides job support to over 21,000 disabled people who face more complex barriers to getting and keeping a job, but who can work effectively with the right support. It enables eligible disabled people to realize their full potential to work within a commercial environment, giving them, whenever possible, an opportunity to progress into open employment. The programme also offers practical assistance to employers. WORKSTEP should only be considered once it has been identified that other programmes cannot meet the needs of an individual.

WORKSTEP can operate in almost any type of job. It provides support to disabled people and to their employers that is tailored to meet individual needs. It gives people the opportunity to work in a variety of different jobs through a wide range of organizations. Clients get the same wage as non-disabled colleagues doing the same or similar work.

WORKSTEP providers introduce clients to their manager and colleagues at work and keep in touch to make sure everything is going smoothly. Clients agree on a development plan with their WORKSTEP provider and employer to ensure they have the necessary training and support to learn to do their job, and develop in it.

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## Financial incentives and support

The Government is making work pay through the *National Minimum Wage*: £4.50 per hour for those aged 22 and above, or £3.80 for those aged 18 to 21 (from October 2003).

From April 2003 a new *Working Tax Credit* was introduced, building on the former Disabled Person's Tax Credit. The Working Tax Credit will provide support to low-paid workers in employment of 16 hours per week or more.

In 1998 *incapacity benefit linking rules* were extended to 52 weeks (two years for people receiving Disabled Person's Tax Credit/Working Tax Credit), allowing people to try out work safe in the knowledge that they can return to the same rate of benefit if they continue to experience ill health and are unable to remain in work.

The *Adviser Discretion Fund*, which was introduced in July 2001, gives personal advisers direct access to funds to remove immediate barriers to employment and thus help clients move quickly into work.

From April 2002 *new Permitted Work* rules were introduced. Any incapacity benefit recipient is now able to earn up to £20 a week for an unlimited period, or work for less than 16 hours and earn up to £72 a week for 26 weeks (rates are changed on 1st October 2003, in line with the increase in the National Minimum Wage). Permitted Work can be extended for a further 26 weeks if progress is being made towards work of 16 hours per week or more. In addition, people on incapacity benefit can work and earn up to £72 a week for an indefinite period doing *supported permitted work* (e.g., where their work is supervised by someone who is employed by a public or local authority, or a voluntary organization, or work done in the community or in a sheltered workshop).

## ***New initiatives***

### **"Pathways to work"**

Historically, many government-sponsored programmes to support disabled people were focused on, and designed to help, those active in the labour market. But there are now some 2.7 million people of working age receiving incapacity benefits, 7.5 per cent of the working population, and around 50 per cent of the economically inactive population who are of working age. As the OECD report *Transforming disability into ability* made clear, this problem is shared by many other developed economies and the numbers involved have risen substantially over the past 30 years.

Disabled people in Great Britain have much lower employment chances than non-disabled people. Of the estimated 6.8 million disabled adults of working age only 48 per cent were in employment in Autumn 2002, compared with 74 per cent of non-disabled people. Estimates put the number of people on Incapacity Benefits who want to work at over 750,000. This represents a valuable additional pool of labour.

The majority of claims are for short-term incapacity benefits (the first six months for people who cannot get statutory sick pay) and many of these claims are short-lived. A person who has been receiving an incapacity benefit for six months has a fifty-fifty chance of still being in receipt of that benefit four years later. Once a person has been incapacitated for 12 months and moves on to a long-term incapacity benefit, the average duration of their claim will be approximately eight years.

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The Incapacity Benefit Green Paper, *Pathways to Work (November 2002)*<sup>2</sup>, set out a range of proposals to help more people receiving incapacity benefits to return to work. Key features of those proposals included more skilled adviser support, through a series of work focused interviews, easier access to the existing range of specialist employment programmes including a “Choices” package involving a new vocational rehabilitation programme, and improved financial incentives to take up work for incapacity benefits recipients. These are being taken forward through pilots in seven areas of Great Britain over the next three years and will cover just fewer than 9 per cent (around 60,000 clients) of the national flow onto incapacity benefits. All the measures in the Incapacity Benefit Green Paper pilots will also be open, on a voluntary basis, to those already receiving incapacity benefits.

### Job retention and rehabilitation pilots

Currently, there is little robust evidence to identify, scientifically, interventions that are most likely to keep in work those people who are at risk of moving into long-term inactivity and incapacity. To address this situation the Government introduced the Job Retention and Rehabilitation Pilots (JRRP). These started in April 2003, operating in six areas, and are due to finish in March 2005. The focus of the pilots is to test the contribution of better-coordinated earlier interventions by health and/or employment services to helping people, who are at risk of losing their job because of illness or a disability, remain in work.

JRRP volunteers are randomly assigned to receive one of three interventions; enhanced workplace help; boosted healthcare services; a combination of additional workplace and healthcare support; or membership of a control group. Everyone will continue to have access to existing services. The pilots should provide robust evidence of the relative impact of the different intervention strategies. A final evaluation report should be available towards the end of 2005.

<sup>2</sup> The Green Paper can be accessed online at: <http://www.dwp.gov.uk/consultations/consult/2002/pathways/>.

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## **Achievements in employment and vocational rehabilitation of disabled persons in Sweden**

*Lennart Alund, Swedish National Labour Market Board, Sweden*

### **Legislative framework and legal trends**

In 2000 the Swedish Government and Parliament (Riksdag) adopted “From patient to citizen: a national action plan for disability policy”. The plan is based on the United Nations Standard Rules to ensure participation and equality for persons with disabilities. The objective of the plan is to create a society in which persons with disabilities participate fully. The plan has three priorities: ensuring that a disability perspective permeates all sectors of society, creating an accessible society, and improving the treatment of people with disabilities. The work on disability policy is to be directed at identifying and removing obstacles to full participation in society for people with disabilities, preventing and fighting discrimination against persons with disabilities, and to enable children, young people and adults with disabilities to lead independent lives and make their own decisions.

The Swedish Government observes that although persons with disabilities have been enjoying an increasing rate of employment over a long period, they still face obstacles on the labour market. Measures to achieve a labour market open to all include Government initiatives regarding rehabilitation and collaboration, new anti-discrimination legislation, the development of types of sheltered employment, and proposals to improve the efficiency of the labour market policy schemes for persons with impaired working capacity. There is also a proposal for an improved system regarding technical aids to assist persons with disabilities.

There are laws regarding the social responsibility of companies in working life. The Employment Protection Act limits an employer’s right to dismiss an employee, by demanding factual grounds for dismissal, and encouraging the employer to explore options such as transfer rather than dismissal. The Work Environment Act imposes demanding requirements on the employer regarding the work environment, broadly defined. Workplace environments are to be adapted to people’s differing physical and mental conditions. This requirement has far-reaching consequences regarding the adaptations of the working environment and working conditions to prevent an individual’s exclusion from working life. The Employment Promotion Act aims at developing measures to promote the employment of older people and people with impaired working capacity. Another measure is to allow the county labour boards to request employers to increase the proportion of people with impaired work capacity in the workforce when recruiting staff.

The Act Prohibiting Discrimination in Working Life against Persons with Functional Disabilities was enacted in 1999. This statute, which prohibits both indirect and direct discrimination, protects not only employees and job applicants but also those people on work experience placements or training at a place of work.

The ban on discrimination applies whenever an employer makes a decision on an employment matter, invites an applicant for interview or takes some other measure during the recruitment process, makes a decision on promotion or selects an employee for training that will lead to promotion, makes a decision on, or takes some other measure, affecting on-the-job training, makes a decision on, or takes some other measure, pertaining to training or vocational guidance, applies salary or other employment conditions, supervises and delegates work, or gives notice to, dismisses or takes some other measure against an employee.

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The ban also applies to direct discrimination in cases where the employer, by taking appropriate supportive steps or making necessary changes, would be able to create working conditions for a person with a functional disability similar to those of other employees. Like the Employment Protection Act and the Work Environment Act, this statute also requires the employer to implement certain adaptations of the workplace.

The Swedish labour market policy includes provisions for special measures to support persons with vocational disabilities. Ordinances regulate labour market policy measures with the Labour Market Board (the Labour Market Policy Programmes Act) and its programme for persons with vocational disabilities (Occupationally Disabled Persons Ordinance). This programme includes support and other measures to compensate for the impaired work capacity of those with occupational disabilities, and to increase these people's chances of finding or keeping a job. This programme and its various measures are described in more detail below.

### **Definition of disability**

The definition most commonly applied in Sweden is based on making a distinction between a person's bodily injuries, functional impairments and limitations, on one hand, and the consequences of these on the individual's everyday life. The term *functional impairment* is used in relation to the individual while the concept of disability relates to the consequences the person faces in everyday surroundings.

A person can have a functional impairment caused by an injury or an illness. *Disability* occurs first in the interaction between the person with the functional impairment and the surroundings. This definition says nothing about the individual's life situation, but it is important because it makes a clear connection between disability and the surroundings. The type of accessibility required depends on factors such as the nature and degree of functional impairment. Therefore, it is the surroundings that determine the degree of functional impairment. The accessibility of the surroundings also determines how many people will be defined as disabled.

Consequently, elements in the surroundings can enhance or limit the individual's capacity to participate in society. This is especially evident in working life. When a functional impairment causes difficulties in finding or keeping a job, this is regarded as a *vocational disability*.

One of the tasks of the Public Employment Service (PES) is to provide service to persons suffering from vocational disability, and to make it easier for them to find work. Employment for all is an important objective of labour market policy. A disability code can be assigned in order to give persons with vocational disabilities the same chances as other jobseekers. The code enables the disabled person to access extended service and/or access to the labour market policy programmes. The Employment Service has specially trained staff to help. The purpose of the coding is to make the applicant eligible for special measures or programmes that are specifically reserved for persons with impaired work capacity.

### **Statistics**

#### Persons with functional disabilities in the productive age groups

More than a million people in Sweden between the ages of 16 and 64 have some kind of disability. This means that just over one in five of the population (21 per cent) reports having some kind of disability. There is no gender discrepancy among those reporting disabilities.

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Every tenth individual in Sweden (10 per cent) between the ages of 16 and 64 reports having some form of disability resulting in impaired working capacity. This means that almost half (47 per cent) of disabled persons consider their capacity to work to be impaired.

The percentage of disabled persons with impaired working capacity has remained relatively constant over the years that the surveys of the situation of disabled persons on the labour market have been conducted. This percentage has varied between 9.8 per cent and 10.5 per cent. Some 52 per cent of the disabled women characterize their capacity to work as impaired, compared with 44 per cent of the men. In real numbers this amounts to approximately 300,000 women and 260,000 men.

Among the group that is employed, 18 per cent consider themselves as having one or more disability. Roughly two out of five (39 per cent) disabled employed persons report an impairment of their capacity to work.

The percentage of disabled people increases with age. Four out of ten people between the ages of 50 and 64 are disabled, while two out of ten between the ages of 16 and 29 are disabled.

One out of five disabled persons (22 per cent) has post-secondary educational qualifications, compared to almost one-third of those without a disability.

The above statistics are based on a survey that supplements Statistics Sweden's regular Labour Force Surveys (LFS), and is based on interviews with 30,000 persons between the ages of 16 and 64, conducted during the fourth quarter of 2002. This special survey is conducted every other year.

#### Jobseekers with vocational disabilities

At present, approximately 55,000 people with vocational disabilities are seeking employment through the Employment Service. The types of vocational disability of these jobseekers are as follows:

Heart/lung diseases	3%
Impaired hearing	4%
Impaired vision	2%
Physical disability	42%
Somatic	15%
Psychological	10%
Intellectual	7%
Socio-medical	11%
Asthma	2%
Dyslexia	3%
Acquired brain damage	1%

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## **Vocational rehabilitation**

### Vocational rehabilitation through the Employment Service

The Swedish National Labour Market Administration conducts vocational rehabilitation through the Public Employment Service and *Arbetslivstjänster* (Working Life Services). The Employment Service works primarily through measures to help unemployed jobseekers. The function of Working Life Services is to conduct paid projects for employers relating to persons who are already employed.

National Labour Market Administration measures for vocational rehabilitation are intended for Employment Service jobseekers who have vocational or functional disabilities, people with impaired work capacity because of illness, or those with other special difficulties on the labour market.

Approximately 50,000 persons with vocational disabilities are currently seeking work through the Employment Service. That is about 10 per cent of the total amount of jobseekers at the Public Employment Service in Sweden. About half of the jobseekers with disabilities are participating in various labour market policy programmes initiated by the Employment Service. The Activity Guarantee umbrella programme (*Aktivitetsgarantin*) is for people who have been unemployed for a long time and who have difficulty in gaining a foothold on the labour market. There are special programmes for persons with vocational disabilities intended to compensate for impaired work capacity (see the description below).

Vocational rehabilitation involves support in locating, obtaining and keeping a job. In addition to access to self-service assistance, the individual usually needs personal service. Vocational rehabilitation utilizes the full range of services offered by the Employment Service. Important services include work experience placements, vocational testing, and individualized assistance in looking for work, as well as special services such as work capacity assessments, special reviews of work capabilities, workplace introduction programmes, and adaptation to the workplace with the help of technical aids. Around 20 per cent of the Employment Service staff resources are allocated to providing service to persons with vocational disabilities and similar difficulties.

Services for jobseekers with vocational disabilities are available at local employment offices in most places. Certain specialist services including resources for various types of vocational disabilities have been organized within a common resource called *Arbetsförmedlingen Rehabilitation* (Employment Service, Rehabilitation). Specialists include consultants with specialized functions, occupational psychologists, social counsellors, occupational therapists and physiotherapists, as well as other specialists, such as those providing service to jobseekers with impaired hearing and/or vision.

The objective is that the rehabilitation measures should result in the jobseeker finding employment. Forty per cent of those with impaired work capacity caused by a functional/vocational disability who received support from the Employment Service in recent years (1999-2001) found work. Just over half found subsidized employment (i.e. positions with Wage Subsidies, Sheltered Public Employment, Recruitment Incentive, or employment at Samhall). The proportion that found unsubsidized positions is higher for persons with physical vocational disabilities than for those who have emotional, mental or socio-medical vocational disabilities. Employers are more prepared to consider employing persons with physical disabilities than those with other disabilities.



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## Measures

People taking part in labour market policy schemes, such as employment training, vocational rehabilitation and training schemes of various kinds, receive an allowance called Activity Support. The daily amount is the same as the unemployment benefit, i.e. up to SEK 580 (about 65 euros) if the person is entitled to income-related unemployment benefit. The rate is SEK 270 (about 30 euros) per day for persons entitled to the basic amount.

Schemes significant to persons with vocational disabilities are:

- employment training;
- work experience;
- recruitment incentive.

The following schemes are reserved for persons with vocational disabilities:

## Wage subsidies

The aim is to help people with disabilities into *regular employment*. Wage subsidies are paid to employers recruiting jobseekers with physical, emotional and intellectual, or socio-medical disabilities. Wage subsidies are paid for a maximum period of four years, which can be extended. The wage paid reflects collective labour contracts, with the subsidies compensating for the reduction in work capacity caused by a disability. Subsidies are flexible and may amount to 80 per cent of a monthly wage of SEK 13,700 (about 1,500 euros), as well as the corresponding payroll taxes and certain collective insurances. For persons with severe disabilities, the subsidy may cover 100 per cent of the wage costs. The amount of the subsidy is determined by the employer, employee, trade union representative and the Public Employment Service. Wage subsidies are publicly-financed and are administered by the Public Employment Service.

## Sheltered employment

The aim of sheltered employment is to offer positions with the state-owned company, Samhall Corporation AB, to persons with disabilities who are unable to find work in the regular labour market. Sheltered public employment is mainly arranged by municipal authorities. Sheltered employment, at Samhall AB and in the public sector, is publicly financed.

Samhall AB's operating concept is to provide meaningful work for persons with occupational disabilities wherever the need exists. This is accomplished by producing goods and services. Job opportunities at Samhall AB are at the disposal of the Public Employment Service, which also assists Samhall AB employees in transferring to the regular labour market. At least 40 per cent of Samhall AB's recruitment must involve severely disabled persons.

Sheltered public employment is funded by state grants paid to public employers recruiting jobseekers with disabilities.

## Special Initial and Follow-Up Support (SIUS)

Subsidized employment is a common measure to enable severely disabled persons find and keep jobs. In Sweden this is also used in a labour market programme. The purpose of the programme is to provide special support prior to taking on a vocationally disabled jobseeker. An SIUS consultant reviews the jobseeker's qualifications and objectives before

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finding a suitable place of work. The consultant also assists in the introduction and training of the employee at the workplace, and this may involve working together with the jobseeker at the tasks in question. The programme primarily targets emotionally troubled and intellectually impaired persons, and is gradually scaled down during the benefit period. SIUS should not continue for more than six months. During the introductory period the participant receives the Activity Support allowance.

### Start-up grants for disabled persons

A disabled person with a strong business concept may be eligible for a business grant. The conditions are that the potential business is expected to have a reasonable chance of success and that the income from the business is expected to make a considerable contribution to the person's living expenses. The maximum grant is SEK 60,000 (about 6,700 euros).

### Other measures

The Public Employment Service can also support vocationally disabled persons through technical aids and the adaptation of the workplace and equipment to the individual. The purpose is to enable vocationally disabled persons to find a job, start a business, or take part in a labour market programme. The support can amount to SEK 50,000 (about 5,600 euros), and may include such measures as:

- special arrangements at the workplace;
- special technical aids;
- grants for a work assistant.

Support designed for persons with disabilities is also available for participants in all labour market policy programmes if this support can improve their chances of entering the labour market.

## **Employment**

### Persons with disabilities on the labour market

Some 68 per cent of persons with disabilities participate in the labour force, compared to 77 per cent of the total population. For disabled persons this represents a decline from 71 per cent in 2000. Among those with impaired working capacity the percentage is lowest, at 57 per cent – a decline from 61 per cent in 2000. These declines are not statistically significant.

In general, persons with disabilities are employed to a lesser extent than the population as a whole. However, the increase in employment since 1996 has been greater for disabled persons than for the total population.

Approximately two-thirds (65 per cent) of disabled persons are employed, compared to about three-quarters (77 per cent) of those with no disability. Only about half (53 per cent) of disabled persons with impaired working capacity are employed.

Only 4.6 per cent of disabled persons are unemployed. The figure is somewhat higher for those with impaired working capacity (5.8 per cent). The corresponding figure for the total population is 3.9 per cent (2002, Q4). In recent years, unemployment has fallen for both disabled persons and the total population.

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Fewer employed disabled persons work full-time compared with the general population: 72 per cent of disabled persons work full-time, compared to 78 per cent of the total population. The corresponding proportion for disabled persons with impaired working capacity is 61 per cent. About one in four disabled persons works part-time compared to one in five in the general population. As in the population at large, part-time work is considerably more common among women than among men.

The distribution of disabled persons in the different sectors of the labour market is about the same as in the general population. However, the proportion of disabled persons employed by the State is somewhat lower than that of the general population, while disabled persons are more represented in the municipal sector. In the case of disabled persons with impaired working capacity, these differences are more pronounced.

Disabled men work mainly in the private sector, while disabled women work to a greater extent in the municipal and county council sectors.

Disabled persons are represented to a lesser degree than the general population in areas such as management, professions requiring theoretical skills and expertise, and fields requiring shorter university courses.

### Employees in subsidized positions

At present, approximately 90,000 persons with vocational disabilities are employed in subsidized positions. These are divided as follows:

Wage subsidies	57 000
Sheltered employment	30 000
Recruitment incentives	3 000

Those persons employed with wage subsidies are mainly employed in smaller (private) companies (52 per cent), 23 per cent are employed by public authorities (state, municipal, county council), and 20 per cent in public benefit organizations. Employment positions with wage subsidies show a predominance of persons with motor and somatic disabilities. Persons with emotional, intellectual and socio-medical vocational disabilities comprise just over 25 per cent of those in employment with wage subsidies.

The Sheltered Employment positions in Samhall AB consist of 60 per cent industrial production jobs, with approximately 40 per cent concerned with the supplying of services.

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## Achievements in employment and vocational rehabilitation of disabled persons in Austria

*Josef Stockinger, Berufliches Bildungs – und Rehabilitationszentrum (BBRZ) Austria*

The labour policy for people with disabilities is based on:

- enhancement of chances on labour market;
- influence on employment relations;
- creation of special jobs.

Legal provisions at the state level are contained in the Employment Service Act, General Social Insurance Codes, and Disabled Employment Act. Legal provisions at the provincial level are laid down in Social Aids Acts and Disabled Aids Acts.

The General Social Insurance Codes cover functional, social and vocational rehabilitation, which have been included since 1977 in all forms of social insurance. The principle is based on “rehabilitation before retirement”.

Measures to improve disabled persons’ access to the labour market include: enhancement of mobility; vocational rehabilitation and education; wage-cost subsidies; financing of technical aids; counselling and labour assistance.

The vocational training system in Austria currently includes four functions:

- assessment and rehabilitation plan (concentrating in abilities rather than disabilities);
- vocational training, which is recognized with a certificate;
- specialization;
- integration.

Austria has a quota system; companies with more than 25 employees are obliged to employ one person with disabilities for every 25 jobholders. If a company circumvents this rule it has to pay to the Federal Office of Social Affairs a compensation tax of 200 euros a month per job that is not held by a disabled person.

Compensation allowance fund. Compensation allowance taxes are collected in the aforementioned fund. These resources are reserved for services to “supported employees” (persons who have a level of disability of at least 50 per cent), or employers who engage “supported employees”.

The Sheltered Workshop (GW) is based upon the Upper Austrian Disability Act. It provides jobs for people with disabilities who do not find employment on the open labour market. There are nine enterprises in Upper Austria, which produce goods and services, mostly for the regional market. There is also a supported employment system which provides support for workers with disabilities who work in open employment. In addition, personal development planning is provided for employees with disabilities.

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## Disability pensions and transformation in Poland

*Irena Woycicka*

### ***Reforming worker protections, disability pensions in transformation programme – Social security reform and disability pensions***

There is a lack of coordination between disability pensions policies and social security and employment policies. Need to coordinate actions.

Beginning of 1990 – higher disability pensions.

Economic factors, social factors (collapse of communism, expectations of increased quality of life)

High increase in people using social security pensions, old collaborative companies have collapsed. In general the policy implemented since 1970s has resulted in:

- reform of disability pensions, social security institution in the 1990s; pension disability expenditure grew rapidly until 1997, when a reform was introduced which changed the situation. Four reasons underlying the change: reduction in the rapid growth of spending; reduction in the number of people eligible for pensions (easy to get a pension in Poland because no supervision of doctors who determine entitlement to disability pensions); reorientation of policies and need for higher professionalism.

*New criteria for pensions:* If you can work, it is not possible to get a disability pension. Individual accountability of doctors granting entitlement to pensions, and other reforms. The system also included a “training pension”, covering the cost of training, but it proved totally inefficient. Why?

Apart from the pension system, the general labour market situation has not greatly changed in Poland. Special sheltered employment systems, quota-levy system for employers who fail to employ disabled people.

*Positive effects:* Stabilization of the number of pensioners; period during which pension is paid is shortened; number of people continuing to receive a pension has decreased.

*Negative effects:* Higher number of people win lawsuits against the social security institutions (30 per cent). How stable are the social security standards? Limited scope of pension scheme, excluding farmers.

*Weakness of policy:* Stabilization of social security system, but no change in employment system. No positive impact of the quota system on the employment situation. No awareness of their rights among people with disabilities.

*Conclusion:* Further progress on disability pensions can only be gained if employment policy evolves.

*Recommendations of the study:* Need for greater standardization of assessment of disability; training systems need to be developed for doctors who assess disability level; penalizing is not the solution; vocational training needs to be improved.

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## Tale of three countries: Disability reform strategies in the Netherlands, Sweden and the United Kingdom

*Eileen Zeitzer, Disability Policy Solutions*

Any country's disability programmes and policies must be viewed within the context of its social, labour and judicial policies, and as a reflection of that society's values and way of life. How a country treats its most vulnerable population groups – the elderly, children, the poor or disabled – is very much influenced by complex and sometimes competing goals. Those competing goals include: a strong societal work ethic, charitable tendencies, and social solidarity. In almost all countries, the programmes and policies designed for these groups are an attempt to find the right balance.

The main difficulty is how to develop an equitable system of deciding:

- Who should be entitled to receive benefits?
- What level of benefits is adequate?
- How to avoid creating a moral hazard – i.e. making benefits so attractive that people are induced to file for them.

The goals of the study were:

- to identify countries that had made significant changes to their disability pension programmes in the last ten years;
- to examine the reasons for the changes;
- to describe the attempted reforms and the results that were obtained;
- to analyse the results and provide a possible explanation for the success or failure of the reforms.

Background: Why each country thought reform was necessary:

- continued growth in the number of disability beneficiaries despite good economic environment;
- disability pension beneficiaries getting younger, so benefits payable for longer periods;
- once on disability pensions, very few ever leave to return to work;
- all of the above resulted in exponential increases in programme costs for all three countries.

Why these three countries were chosen? All three countries had:

- similar problems of long and persistent growth in the disability rolls;
- similar demographic patterns with aging populations likely to ensure ongoing and increased pressure on disability programmes;
- similar patterns in main causes of disability awards, in particular for mental illness and stress-related disorders.

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BUT: each country chose a different method of trying to address those problems – hence the possibility to evaluate different approaches to reform.

### ***Netherlands: Background on the situation of the “Dutch disease”***

- The “disease” is a disproportionately high rate of workers on paid sickness absence and/or disability.
- Specifically, out of a total population of 15.5 million, of whom less than 7 million are in the labour force, some 924,000 claimed disability benefits in 1999.
- The problem originated in the late 1970s and early 1980s when the Government used the disability programme to resolve high unemployment resulting from a severe recession.
- Experts expect the 1 million threshold will be crossed in 2003.

These numbers mean that about 9 per cent of the Dutch between 20 and 64 years of age receive some kind of disability benefit, the highest percentage among the OECD countries. In 1999 disability-related programmes absorbed 19 per cent of total social expenditure and 4.64 per cent of GDP.

The Dutch approach:

- Tighten eligibility rules.
- Cut generosity of benefits (replacement rates).
- Institute time-limited benefits and reviews.
- Link benefit levels to age and contribution years.
- Shift financial costs to employers for first year of sick absence (privatization).
- Make employers responsible for work environment health and safety issues.
- Establish a new focus on the rehabilitation and reintegration of workers who develop a disabling condition.

What was the outcome in the Netherlands?

Initially, the partial privatization of sick pay had the desired effect – sickness claimants dropped from 345,000 in 1993 to 175,000 in 1994. BUT:

- (1) Further privatization yielded no extra beneficial result because the behavioural effect of the first measure had already caused 80 per cent of all employers to reinsure this risk with private insurance companies.
- (2) Very recent studies show a rising trend again but with a net overall decline of 25 per cent since the early 1990s.
- (3) One undesirable effect is that employers are practicing risk aversion strategies in hiring practices – i.e., screening new employees’ health status more closely. Thus workers with disabilities or chronic health problems are having more difficulty finding new jobs.

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- (4) Furthermore, employers are using more temporary labour contracts and hiring through employment agencies.

Brief analysis of the Dutch situation and approach:

- Frequent, fairly radical changes, but essentially confined to the elements of the disability pension programme itself.
- Efforts to shift costs and responsibilities for healthy and safe working environments to employers.
- Onus on employers to make accommodations for workers who develop impairments/disabilities.
- Few public efforts at encouraging rehabilitation, retraining or accessible societal environment.
- Little involvement of disability organizations in the debates or decisions on how to reform the system.
- Despite all efforts, there are still too many people on disability benefits and politicians have announced another round of cutbacks.

### ***Sweden: Rebalancing a dual commitment to universal welfare and support for employment***

Sweden's social policy has long been characterized by universal welfare policies within the context of strong labour market support. Increasingly, however, in recent years these commitments have been challenged by strong demographic and economic pressures.

The Swedish situation:

- Unlike the Netherlands, the Swedish problems with their disability pension programme are more recent and more easily explained.
- Their problems really started in the 1990s when declining prosperity led to higher unemployment levels.
- However, the rapid aging of the population is putting even greater pressure on the system.
- The number of Swedes over 65 will take a steep upturn around the year 2010.
- The problem is exacerbated by the rise in the Swedes' average life expectancy.
- Their percentage of the "oldest old", i.e., over age 80, is quite high already.

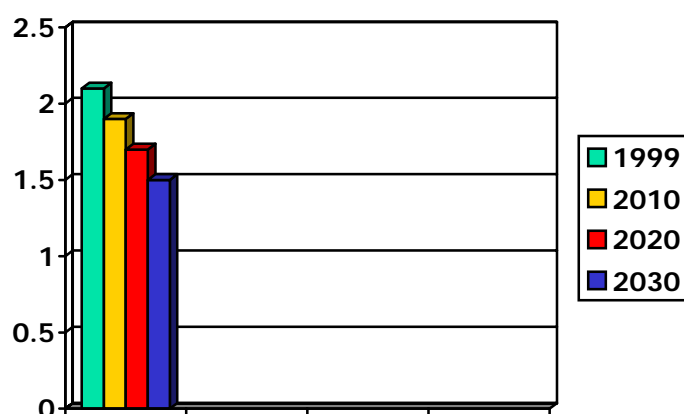
Pressures on Sweden's disability pension programme:

- Average life expectancy at age 65 is projected to increase by roughly one year for every ten years.
- By 2010 there will be 200,000 more pensioners, by 2020, 500,000 more and by 2030, 700,000 more.



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## Effects of Sweden's rapidly aging population



- A third worrisome trend is the high proportion of workers who leave employment before the general pension age of 65.
- Currently, the average age of retirement is 62.1 years for men, 61.7 for women.
- This trend impacts specifically on the disability programme because of an increasing tendency to use disability benefits as an early exit for older workers – a practice the Government sees as implicitly supported by employers and trade unions.
- As a result, in the 60-64 age group, almost half the women and one-third of the men receive a permanent disability pension.

### Swedish pressures and reactions:

- changes to sickness benefits (recognized as the gateway to disability benefits);
- concern over rising sickness rates led to:
  - reduction in benefit levels from 90 to 80 per cent;
  - cost-shifting to employers for the first 14 days (and for awhile the first 28 days);
  - one-day waiting period for payment eligibility;
  - earlier attempts at intervention by social security offices and tighter scrutiny.

### Final comments on Sweden:

- The Government is addressing issues raised by the disability programme, with specific solutions aimed at problems that have arisen under the sickness benefit programme and at the misuse of disability for early retirement.
- In addition, there are the beginnings of societal solutions through employment rights and the promotion of universal access, stemming from the creation of the Disability Ombudsman's office.

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- Finally, it is recognized that much more needs to be done and new goals have to be set at the societal level to promote the inclusion and employment of disabled individuals.
  - Still more work is needed by the Government if it is to act as a model employer.

### ***United Kingdom: A multi-dimensional approach to reform***

Since coming to power in May 1997, the Government has pursued policies for people with disabilities in line with their welfare-to-work philosophy, namely,

*“work for those that can, security for those that cannot”.*

The programme is the “New deal for disabled people” and it embodies a truly multifaceted approach to the problem of persistent and unyielding growth in disability pensions.

Background to the British problem:

- Between 1979 and 1997, the number of people of working age claiming benefits because of long-term health problems or disability trebled to over 2.5 million.
- In 1997 these benefits accounted for one-quarter of all social security spending and grew at an annual rate of 6 per cent, faster than spending in any other area.
- In the early and mid-1990s the disability rolls were heavily populated by older male workers, many of whom had lost their jobs and were unable to find new ones.

Background on the British system and early reforms:

- The British system does not pay benefits for partial disability.
- The system does, however, provide many types of help with different kinds of need, such as mobility, personal care, and income support for low-income individuals.
- Several household surveys showed that nearly 1 million on benefits said they would work if given the right assistance.
- The Conservative Government made extensive changes to short- and long-term benefits to achieve savings.
- They eliminated the authority of general practitioners to find claimants eligible and shifted it to doctors employed by the Benefit Agency Medical Service.
- They also instituted the All Work Test to determine functional capability.

How the NDDP extends reform beyond the benefit programme:

- The Labour Government formed the new **Department for Work and Pensions** (DWP) that merged Social Security and the Department of Education and Employment.
- The new department reflected a significant change in philosophy to one that helps people who voluntarily want to try work to do so.

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- The merger also engages the employment experts in helping disabled individuals retain or find work. The following are just some of the initiatives being used:
    - **Disabled Person’s Tax Credit:** To ensure that disabled individuals who work are not worse off financially. It is paid into the worker’s salary and there are additional credits for childcare costs. It can also help someone stay in a job who is having health problems.
    - **Job brokers:** A network of 75, drawn from private, public and voluntary sectors; they help the DWP’s “customers” find jobs.
    - **Gateway interviews:** Mandatory interviews with an adviser to see if work is a possibility.
    - **Permitted work:** Allows disabled beneficiaries to try working up to 16 hours a week for 26 weeks for pay. The trial period can be extended by another 26 weeks under certain circumstances.
    - **Access to Work Programme:** Helps cover the cost of accommodations that are needed for a disabled person to work, such as special equipment, adaptation of work site; support workers; travel help, etc. Employer pays it and can then claim most of the cost back.

#### The British approach: Putting it all together

The final aspect of this multi-pronged approach is strong civil-rights-based support through:

- (1) **The Disability Discrimination Act (DDA):** Makes it unlawful for an employer of 15 persons or more to discriminate against a disabled person for reasons related to the disability without justification.
- (2) **The Disability Rights Commission:** An independent body established in 2000. It advises, educates, influences public opinion and promotes good practice by working with employers and providers. It also has many enforcement powers. In short, it both acts as a “bully pulpit” and monitors how well the Government and society are doing. It does not need to be invited by the Government to become involved; instead it is its right and obligation to influence policies that affect the lives of people with disabilities.

#### ***Models, lessons and policy traps: Some general recommendations for disability pension policy design***

- Do not use disability pension programmes to address other social problems such as unemployment, or to lay off older, perhaps redundant workers.

WHY NOT? It confuses the purpose of the programme and can create costs over a much longer term. The experience of all three countries shows that, once the disability “gates” are open wide, it is hard to close them again.

WHAT SHOULD BE DONE? Extend the payment period and eligibility requirements for unemployment benefits.

- Use small-scale experimentation (pilot projects, demonstrations) as a basis for large-scale policy changes.

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## Why?

- To identify effective interventions in different economic, legal and social contexts.
- To help avoid major policy mistakes that might prove harmful to people with disabilities.
- To increase public understanding of the issues and maintain societal support for the disability programme.
- Strive for a multi-dimensional approach when redesigning disability pension programmes.

Consider aspects such as:

- tax policies;
- access to transportation and the environment;
- job protections;
- anti-discrimination laws;
- social services.

Such a broad focus can be achieved, for example, by a special government office assigned to take a broad view of the situation and advise on proposals. The Disability Ombudsman in Sweden and the Disability Rights Commission in the United Kingdom are examples.

- Make work pay.
  - Working must be more lucrative than benefit status, or else a moral hazard will result.
  - However, the costs of disability must also be recognized and the “playing field” must be level.
  - Disabled people who work should not be at a financial or civil-rights disadvantage in contrast to non-disabled workers.
  - Therefore, help with additional disability-related costs such as attendant care, transportation, worksite accommodations, accessible housing, childcare and tax credits should all be used to increase work options for disabled individuals.
- Formulate proposals through social dialogue that includes all affected parties, including people with disabilities.
  - It is understood that the social partners are employers, trade unionists and the government, but people with disabilities also need to be at the table when disability pension restructuring is being discussed.
  - Why?
    - (1) Because they are the ones most affected by the change.

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- (2) They have the greatest knowledge of the barriers they face and how best to encourage rehabilitation and work.
  - (3) Their opinions can help determine whether the policies ultimately succeed or fail.
- Maintain a rigorous eligibility process that relies on objective medical evidence as the first threshold.
    - Without medical reports, tests or laboratory findings, the physicians or the system is forced to rely solely on what the claimant says about his/her symptoms and ability to work. This can lead to subjectivity, variability and a possible drift towards laxness in the decision process.
    - Relying on objective evidence provides a baseline against which all claimants are assessed and thus provides greater fairness, consistency and reliability.
    - The medical baseline can then be followed by residual vocational and functional capacity measures if desired.
  - Governments must lead by example.
    - Public sector entities must be model employers in hiring, accommodating and promoting disabled individuals if they are to have any credibility with private employers or trade unionists.
    - They can take positive steps not only to provide a healthy work environment but also to recruit and accommodate workers with disabilities.
    - In this way, private employers and the general public become accustomed to seeing disabled people performing competently and reliably, and this helps break down societal prejudices.

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## Legislation and activities in the field of vocational rehabilitation and employment of persons with disabilities in Poland<sup>3</sup>

*Mr. Adam Gwiazdowicz, Government Plenipotentiary for Disabled People, Poland*

In Poland, the legislation concerning people with disabilities is based on the principles of non-discrimination, integration and equal opportunities. The principle of public consultation is respected in the process of shaping legislation and establishing priorities for action. Actions taken in favour of disabled persons are carried out in conformity with the subsidiary principle.

The rights of all the Polish citizens are guaranteed by the **Constitution of the Republic of Poland**, dated 2 April 1997. The Constitution determines the fundamental rules of the State's social policy as regards freedom and justice, legal protection of private and family life, citizens' right to decide on their personal life, collaboration of the authorities, social dialogue and the principle of subsidiary reinforcing the rights of citizens and their communities.

Moreover, some special rights have been provided by the Constitution to ensure that persons from vulnerable groups, such as the disabled, enjoy equal opportunities in the field of social security, access to health protection and special health care, as well as to ensure their subsistence, adaptation to work and social communication.

**Article 32** of the Polish Constitution stipulates that "everybody is equal according to the law", and "has the right to equal treatment by the public authorities" and that "nobody shall be discriminated against in the political, social or economic life for any reason". This standard also implies an anti-discriminatory measure with respect to disability.

For the first time a general anti-discrimination provision concerning employment relations was incorporated in 1996 into the **Labour Code** of 1974 as article 11.3. Since 1 January 2002, article 11.3 reads as follows: "Discrimination of any kind, direct or indirect, in employment, in particular on the grounds of sex, age, **disability**, race, nationality, convictions, especially political or religious, as well as union affiliation, shall be inadmissible."

The constitutional bestowal of equal rights on all citizens has to be accompanied by adequate tools and resources that ensure that everyone, and in all respects, enjoys equal opportunities to benefit from the same rights, irrespective of their individual situation.

The most important legal regulations concerning the disabled are embodied in the following acts and regulations:

- Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Disabled Persons.
- Act of 14 December 1994 on Employment and Counteracting Unemployment.
- Act of 7 September 1991 on the Education System.

<sup>3</sup> See also the annex: "National reports on vocational rehabilitation and employment of persons with disabilities".

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- Regulation of the Council of Ministers of 22 January 1991 on terms, forms, mode of granting, payment as well as amounts of material assistance for students attending regular courses.
  - Act of 17 December 1989 on Pensions from the Social Insurance Fund.
  - Act of 23 January 2003 on Common Insurance in the National Health Fund (which has replaced the Act of 6 February 1997 on Common Health Insurance since 1 April 2003).
  - Act of 19 August, 1994 on Mental Health Protection.
  - Act of 29 November 1990 on Social Assistance.
  - Act of 15 November 1984 on Transportation Law.
  - Act of 20 June 1992 on the Right to a Free Pass or Reduced Fare on Public Collective Transport.
  - Act of 7 July 1994 on Building Law.
  - Regulation of 14 December 1994 on Technical Conditions that Buildings Should Meet and Their Situation (*executive ordinance under the Building Law*).
  - Act of 21 June 2001 on Housing Allowances.

The legislation in favour of people with disabilities contributes to a progressive improvement of their situation in society and promotes increasing access of persons with disabilities to:

- mainstream primary, secondary and higher education;
- medical rehabilitation services;
- orthopaedic and auxiliary appliances and technical medical equipment (which are now partially or fully payable);
- public buildings and public transport;
- housing;
- vocational training and employment, especially for people with a severe or moderate degree of disability.

The first Act regulating the employment and vocational rehabilitation of persons with disabilities in detail was adopted by the Polish Parliament on 9 May 1991 as the **Act on the Vocational Rehabilitation and Employment of Disabled Persons** and came into force on 1 July 1991.

Since 1 January 1998, this Act has been replaced by the **Act of 27 August 1997 on the Vocational and Social Rehabilitation and Employment of Disabled Persons**. It has since been adapted to the many changes resulting from four great reforms that were implemented in Poland in 1999 (public administration, social insurance, medical care, educational system) and amended (recently in December 2002) to ensure full compliance with the *acquis communautaire* (particularly in the field of taxes and the policy regarding competition) before the date of the Poland's accession to the EU.

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These two Acts provided the basis for setting up the post of the **Secretary of State – Government Plenipotentiary for Disabled People** at the Ministry of Economy, Labour and Social Policy (previously, the Ministry of Labour and Social Policy) as well as the **State Fund for Rehabilitation of Disabled Persons** (PFRON).

The Plenipotentiary is responsible for shaping the policy on the employment and vocational and social rehabilitation of the disabled and for the coordination and supervision of the tasks resulting from the Act. At the same time he fulfils the function of a President of the Supervisory Board of the State Fund for Rehabilitation of Disabled Persons.

The financial resources of the Fund allocated to the tasks resulting from the Act (for their entire or partial financing) come mostly from employers' payments according to the **quota-levy system**, which was implemented in Poland on 1 July 1991 on the basis of the Act of 9 May 1991.

The Act guarantees some of the basic rights of disabled persons in the area of vocational and social rehabilitation, such as the right to attend occupational therapy workshops, to reduced hours of work without a loss of remuneration, to training or to extra leave from work in order to participate in rehabilitation courses. Moreover, it provides for some tools to promote an active attitude among such persons and supports their employment in particular on the open labour market.

Polish legislation in the field of disability offers prospects for improving the situation of disabled persons. However, the pace and extent of implementation of this legislation depend largely on available financial resources.

Poland looks forward to early membership of the European Union, which will enable it to take advantage of the Structural Funds, including the European Social Fund (ESF). The government administration and services acquire and disseminate knowledge regarding how to prepare regional and local strategies, action plans and operational programmes in favour of the social inclusion of disabled persons, which could be financially supported by the ESF.

Information on the number of persons with disabilities is obtained from the National Census as well as from interview surveys conducted by the Central Statistical Office.

Generally the disabled population consists of persons with legally certified disabilities (legal criteria) and persons not legally certified but who subjectively classify themselves as disabled (biological criteria).

The most recent complete statistical data concerning the whole population of persons with disabilities (including people living in collective households) came from the National Census of 2002. The findings show that there are 5,457 million disabled people in Poland (14.3 per cent of the total population) and 4,450 million of whom have been legally certified as disabled (11.6 per cent of the total population). Children in the 0-15 age group constitute 3.04 per cent of the total number of legally disabled, 4,315 million of the legal disabled are adults (16 years old and more), and of the total some 2,206 million are women.



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In April 1996 the Central Statistical Office investigated the issue of disability by conducting a sample Health Interview Survey of the Population of Poland. It was based on legal and biological criteria but carried out only in households, excluding the part of the population living in collective households. Cyclical (quarterly) Labour Force Surveys (LFS) provide current data on the number of legally disabled persons aged 15 years and over. Considering the results of the LFS study we can state that the number of legally disabled aged 15 years and over, as well as the rate of disability over the last few years, remains at a similar level.

According to the LFS, **in the fourth quarter of 2001** there were **4,312 million** disabled; the index of disability in this age group was **14 per cent**. Other data concerning the disabled include:

- activity rate: 17 per cent;
- employment rate: 14.4 per cent;
- unemployment rate: 15.3 per cent.

The Survey for **the fourth quarter of 2002** showed that there were **4,235 million** persons with disabilities aged 15 years and over (the index of disability in this age group amounted to **13.6 per cent**), including 730,000 who were economically active (611,000 persons declared that they were employed). There were 2,782 million persons with disabilities aged between 15 to 64 years; among this group 649,000 persons claimed to be economically active, i.e., declared that they were either employed (529,000) or unemployed.

The other relevant data concerning the disabled aged 15 years and over are as follows:

- activity rate: 17.3 per cent;
- employment rate: 14.4 per cent;
- unemployment rate: 16.6 per cent.

The LFS data on employment status derive from statements made by the interviewed persons. The data on registered unemployment of persons with disabilities come from the local labour offices' registers.

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## Activities of the National Labour Inspectorate in Poland in the field of employment of persons with disabilities

*Anna Hinz, Chief Labour Inspector, Poland*

The Polish Constitution guarantees assistance to the disabled in preserving their existence, preparing them for work and providing them with special health care. Furthermore, the Polish Parliament, by enacting in August 1997 the Charter of Fundamental Rights of Disabled Persons, underlined the right of every disabled person to an independent, autonomous and active life and outlawed discrimination against any persons whose physical, psychic or mental, permanent or periodical impairment restricts partly or wholly the conduct of their everyday life, learning and work as well as the performance of their role in society.

In accordance with binding legal regulations, disabled persons have the right to employment on the free labour market, according to their qualifications, education and possibilities and, if their disability and state of health so require, the right to work in conditions adapted to their needs. Enforcement of these regulations is the responsibility of the National Labour Inspectorate (NLI), which annually supervises some 7,000 employers in this respect.

Inspections carried out by labour inspectors are also a fundamental element of the process whereby a province can confer the status of protected workplace on an employer. Only when it is confirmed by a labour inspector that the location's facilities conform to occupational safety and health rules and regulations, and that the workstation, sanitary rooms and traffic arteries take into account the needs of disabled persons and comply with accessibility requirements, may the status of protected workplace be conferred on an employer.

In 2002, within the scope of their supervisory activity, labour inspectors carried out:

- 678 inspections in plants requesting the status of protected workplace – in 57 cases they issued a negative opinion;
- 745 inspections in protected workplaces setting up new subsidiaries – in 82 cases they issued a negative opinion;
- 535 inspections in protected workplaces creating new workstations for disabled people – labour inspectors issued negative opinions in 13 cases.

The Labour Inspectorate has similar duties in relation to enterprises engaged in a professional activity.

Last year, inspections were carried out in five enterprises which applied to the regional labour inspectorates for the status of professional activity. The opinions issued were positive.

The Rehabilitation Act requires the NLI to issue opinions on workstations created (or being newly adapted) by employers who do not have the status of protected workplace for disabled persons sent to work there by district labour offices or employed there when the person became disabled. Such an employer, when the conditions defined in the Act are met, can solicit the reimbursement of costs from the National Rehabilitation Fund for Disabled Persons. To obtain the reimbursement, a plant must obtain a positive opinion of the NLI on the satisfactory adaptation of the workstation.

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In 2002 labour inspectors conducted 2,495 inspections in plants which do not have – and have not requested – protected workplace status but have created workstations for disabled persons. They issued 85 negative opinions.

The latest amendments to the Rehabilitation Act (of 1 February 2003) set out new tasks for the National Labour Inspectorate, such as issuing opinions on adaptations made by employers who do not guarantee protected-work conditions but want to employ or have employed severely or moderately disabled persons. This means that every employer planning to employ a severely or moderately disabled person is obliged to obtain a positive opinion from the Labour Inspectorate in this respect.

This is a very important task of the NLI from the standpoint of the protection of disabled persons at their place of work. The regulation does not deprive more-than-slightly disabled persons of the possibility of being employed in non-protected workplaces, which depends on the labour inspectors' opinion confirming that the conditions of work are safe and user-friendly. As a result of amendments to the Act, the NLI is now responsible for the enforcement of the rules and regulations governing protected workplaces and enterprises conducting professional activity at least every three years.

For many years, irrespective of this new duty, the NLI has carried out target-oriented and planned inspections in plants employing disabled persons, including protected workplaces. Inspections were conducted on the basis of the provisions embodied in the Act which require the National Labour Inspectorate to supervise and inspect the employment of disabled persons, who – like women and young people – are entitled to special protection.

In 2002 protected workplaces were the object of 1,145 inspections. The scale and type of irregularities discovered justified addressing three motions to provinces which resulted in the loss of the status of protected workplace by two plants (in 2001, 1,081 inspections were carried out and eight plants lost the status of protected workplace).

Most employers did not meet the required technical conditions in their facilities. In the plants visited, inspectors observed architectonic barriers, inadequate volume and surface of facilities and sanitary rooms, absence of sanitary rooms adapted to the needs of disabled persons, absence of gravitation ventilation in rooms, thresholds on traffic arteries, and the poor technical state of installations and of electrical power-engineering devices. These irregularities were the result of a change of localization (without informing the NLI), the reconstruction of rooms or the disrepair of rooms, installations and technical devices.

Inspection visits conducted in plants employing disabled persons resulted in 23,096 injunctions governing irregularities under the heading of safety at work, including 212 decisions calling for the immediate discontinuance of work which posed a direct threat to health or life, and 57 decisions requiring employees to be transferred to other types of work when, contrary to existing regulations, they were engaged in hazardous, forbidden or harmful work.

Labour inspectors addressed 6,194 complaints to employers who infringed the rules and regulations governing the protection of labour. As regards persons guilty of infringing employee's rights, 69 motions were tabled requesting the labour tribunal to punish the offenders. In addition, 690 persons were served with administrative fines to a total amount of 9.7 million PLN.

These enforcement measures have led to the reduction or elimination of many hazards and irregularities, and thus to the improvement of the working conditions of about 32,000 people.

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For disabled persons, labour inspectors also obtained the payment of remuneration for overtime work that was due to 3,600 employees, and the granting of overdue and additional leave to 650 employees.

According to the inspections' results, while in the past the percentage of irregularities was greater in plants applying for protected status and in companies creating workstations for disabled persons, in 2002 the number of irregularities increased in protected workplaces. The majority of irregularities result from employers' negligence in existing plants, when they change the location of workstations or modernize rooms and fail to take into account the needs of disabled persons. Arbitrarily changing a room's arrangement infringes the rules and regulations in force and causes the working conditions of employees to deteriorate. Employers sometimes create new offices or workstations in the plants or rooms which do not comply with technical and constructional rules and regulations.

The increase in the number of irregularities observed in protected workplaces in recent years offers evidence of deteriorating working conditions. In the employees' opinion the phenomenon arises from the poor financial situation of these plants as they are not competitive enough in the market. Even reimbursements and subsidies do not compensate for the cost of employing disabled persons (in particular, the cost of adapting the work environment, the persons' limited efficiency and productiveness because of the entitlement to special privileges and, frequently, their low level of professional qualifications). As a result employers sometimes try to spend less on safety and security at work. Employees make economies not only on investments and work rooms but also on technical equipment and technologies. They also practice "economy" with regard to employees' salaries and training, and in order to increase production they employ workers in excess of normal working hours or let outstanding and additional leave accumulate. Another phenomenon observed by labour inspectors and related to the economic situation is a decrease of employment in the production departments of protected workplaces and an increase in staff in unproductive areas, such as services, especially in security, marketing and cleaning.

Economic factors are not the only cause of deteriorating working conditions in plants employing disabled persons. According to the labour inspectors poor organization and the attitude of employers and employees have a negative impact on the situation as well. The main factors involved here are:

- the poor knowledge of employers (mainly, those who create workstations for disabled persons or apply for the status of the protected workplace) of the rules and regulations regarding facilities and the adaptation of work areas, machines and technical devices and the additional equipment required on account of an employee's disability;
- tolerance by employers of poor security conditions in a plant and neglect of safety rules and regulations;
- reluctance of employers to invest in premises hired from another owner, who may not always consent to their modernization;
- inadequate awareness or neglect of rules and regulations on disabled persons' rights, such as reduced working time and additional rest days.

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The findings of labour inspectors and the analysis of advice received and problems reported point to the need for:

- drafting rules and regulations or guidelines on the layout of workstations and on the equipment used according to individual disability. It is essential to define basic parameters for a workstation employing disabled persons, such as the floor space not occupied by machines and devices per disabled person, the number of times the air should be changed by ventilation in the workstation of a person suffering from respiratory problems, the intensiveness of the light in workstations employing blind persons, etc.;
- conducting an extensive information campaign aimed at employers who create or intend to create new workstations regarding the conditions that must be met by plants employing disabled persons (this is beyond the competence of the inspectorate itself).

There is also a need for:

- close cooperation between labour inspectors inspecting plants employing disabled persons and occupational health services, in order to define the needs of disabled persons with regard to the adaptation of workstations;
- continuing and developing cooperation at the district inspector level with employers and employees' organizations and national administration and self-government entities concerned with disabled persons' issues, and publicizing the findings of inspection visits conducted in plants employing disabled persons.

Only the close and coordinated cooperation of all interested parties can bring about the results in the field of working conditions and of the enforcement of laws and regulations concerning disabled persons. The initiatives undertaken within the context of the European Year of Disabled Persons should help to improve our knowledge of disabled persons' needs.

Poland's accession to the family of the European Union members could be a turning point in its definition of legal requirements relating to disabled persons, inasmuch as its laws are adjusted to European regulations. It will also be necessary to prepare financial measures – from the central budget and self-government budgets – to eliminate all the social, economic and physical barriers that disabled persons face every day. In a word, disabled persons must have special rights so that they can enjoy the same rights as other people.

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## Romania

*Mr. Catalin Bucinschi, Director, National Authority for Handicapped Persons, Romania*

The National Authority for Handicapped Persons (ANPH) is a specialized institution of the central public administration, under the coordination of the Ministry of Labour, Social Solidarity and Family, and is responsible for the special protection of persons with handicaps.

In Romania, the number of persons registered as suffering from disabilities is 423,393 (56,886 children and 366,507 adults).

One hundred and forty-nine residential centres exist in the special support system for persons with handicaps. They are public institutions concerned with the safety of persons with disabilities – pilot centres, care and assistance centres, rehabilitation and recovery centres, centres for integration through professional therapy, protected homes on the model of the family, day-care centres and early-intervention centres. These institutions house 19,860 residents.

The National Authority for Handicapped Persons (NAHP) consists of:

- the Higher Medical Expertise Commission for Adults with Handicaps;
- eight regional inspectorates;
- the National Institute for the Prevention and Control of the Social Exclusion of Handicapped Persons.

### **Legislative framework and legal trends**

*General information on legal acts regarding persons with disabilities (vocational rehabilitation and employment)*

In terms of the international legislative framework (UN Standard Rules, 1993; European Union regulations; Recommendation R/86/379/EEC of the Council of Europe), Romania has greatly enhanced its efforts in the field of disability with a view to setting up a coherent policy for the vocational rehabilitation and employment of persons with disabilities.

The main enactments pertaining to the special protection of handicapped persons in Romania are:

- O.U.G. No. 102 of June 1999, on the special support and employment of persons with disabilities (modified and integrated by Law No. 519/2002). This enactment provides:
  - Article 35. Under the conditions of the general labour legislation, the employment of persons with disabilities is intended for their social and occupational integration.
  - Article 36. Physical or legal entities can employ persons with disabilities according to their professional training and physical and intellectual capabilities by means of an individual labour agreement.
  - Creating protected workplaces that comply with the accessibility principle makes possible the employment of persons with disabilities.

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- Persons with disabilities can also be employed for home work, provided arrangements are made for the transport of the raw materials used in their activity and of the finished products made by them.
  - Pursuant to O.U.G. No. 102/1999 protected units can be the following entities:
    - Economic bodies where at least 30 per cent of the total number of employees are persons with disabilities employed under an individual labour agreement.
    - Sections, workshops or structures within economic bodies, which have their own bookkeeping system and where at least 30 per cent of the total number of employees are persons with disabilities employed under an individual labour agreement.
    - Family associations, associations (foundations) without working purpose which have at least one handicapped person among their officers, as well as the handicapped person who is authorized to perform independent economic activities.
    - Centres for the integration of disabled persons by occupational therapy subordinated to the ANPH.
  - The fiscal incentives granted to the protected units are the following:
    - Exemption from payment of profit tax, provided that at least 75 per cent of the amount obtained from the exemption is reinvested in the purchase of technological equipment, machines and work installations and/or in the adaptation of the protected workplaces.
    - Exemption from payment of customs duties for the import of raw materials, semi-finished materials, equipment and parts of equipment necessary to the production process, on the understanding that such items cannot be coded for a period of five years, subject to the retroactive payment of the customs duties.
    - Exemption from VAT on operations performed in these units.
    - Protected units can organize workplace training classes for handicapped adults which are financed from the budget of the Unemployment Security Fund.
    - Local public administration authorities can grant other incentives with their own funds.
  - The rights (favourable conditions) granted to the persons with handicaps (serious, severe or moderate) who are employed, are the following:
    - The right to occupy any position in the employers' personnel scheme according to their professional training and their physical and intellectual skills (provided the accessibility principle is respected).
    - A trial period upon employment of at least 45 days.
    - A paid period of notice of at least 30 working days granted upon termination of the individual labour agreement on the employer's initiative, for reasons not ascribable to the employee.

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- The possibility of working less than eight hours a day, in case they benefit on the recommendation of a medical practitioner.
  - Personal additional deduction of 1.0 multiplied by the basic personal deduction for persons with serious handicaps who are employed under individual labour agreement, and 0.5 multiplied by the basic personal deduction for persons with severe handicaps who are in the same situation.
- Act No. 76/2002 on the system of the unemployment security and stimulation of employment.
- Article 80. The following incentives exist for employers that employ persons with disabilities:
    - Employers who for an undetermined period employ graduates who are handicapped persons are entitled for a period of 18 months to a monthly amount representing 1.5 times the minimum gross wage in force at the country level in respect of each graduate, provided they maintain the working relationship for at least three years from the date the relationship takes effect.
    - Employers who have fewer than 100 employees and who for an undetermined period employ handicapped persons receive each month, in respect of each employed handicapped person, an amount equal to the minimum gross wage in force at the country level, provided they maintain the working relationship for a period of at least two years.

*Provisions aimed at combating discrimination on the grounds of disability*

- I. Act No. 48/2002 approving O.U.G. No. 137/2000 on the prevention and sanctioning of all forms of discrimination.
- Equal treatment for men and women as regards social security.
  - Equal treatment for all persons seeking employment.
  - Free and equal access to the supply and demand of the labour market.
- II. Act No. 696/2001 on the financing of projects aimed at the special protection of handicapped persons.
- The fields which can obtain financing (through projects) from the National Authority for Handicapped Persons (NAHP), in pursuance of the National Strategy for the special protection and social-occupational integration of handicapped persons, are:
- preventing the institutionalization of handicapped persons;
  - enabling them to live independent lives;
  - vocational guidance, training and employment;
  - rendering accessible the physical environment;
  - improvement of the legislation on the special protection of handicapped persons;



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- continuous training of personal and social assistants;
  - information, education and communication.
- There have been a number of legislative developments and changes planned in the last decade.

The National Strategy on special support for, and social inclusion of, persons with disabilities in Romania, pursuant to HG No. 1215/1999, includes a National Plan of Action for 2002-05.

In implementation of the Strategy the following initial steps have been taken:

- (a) A joint project with the Government of the Netherlands for drafting a National Plan of Action for the implementation of the Strategy.
- (b) The EU-PHARE project, centred on regional development, labour market and social policies.
- (c) Order No. 748/460/2002 on agreeing to the criteria framed and on how to permit the development of protected workshops.
- (d) Quality standards for residential centres, with a view to framing new policies aimed at the social and occupational integration of persons with disabilities.

These quality standards cover services for the following categories:

- persons with physical and sensory disabilities, with the focus on vocational training, independent living and protected homes;
  - persons with mental disabilities, focusing on the development of abilities and vocational training;
  - persons in old age with disabilities, focusing on self welfare;
- (e) On-the-spot actions for the year 2003:
- avoiding the institutionalization of persons with disabilities;
  - establishing protected services;
  - creating a system of community support;
  - individual assessment and planning (A-teams);
  - devising alternative services that provide care, support and training;
  - exchanging and improving of the programme for school institutions;
  - identifying best practices;
  - bringing quality standards for services in line with international standards;
  - developing alternative services and small institutions (50 persons);

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- exchanging information and training specialists (personal assistants and governmental and non-governmental staff);
  - framing and assessing indicators with a view to the integration in society of persons with disabilities.

Vocational guidance and employment must comply with the principles of the market economy:

- (1) Vocational rehabilitation and adequate professional training must be made available to all categories of handicapped persons.
- (2) The work and employment opportunities for such persons must be promoted on the open labour market in both the urban and the rural environment.
- (3) A policy of education and vocational training must be promoted to ensure the continuity and coherence of the training policy for children and young people with disabilities.
- (4) The instruments existing on the labour market (vocational training, employment promotion, etc.) must be accessible to handicapped persons.
- (5) The principle of “freedom of choice” must be applied in the field of vocational training and employment.
- (6) Handicapped persons (or their families or representatives) must participate in the measures taken for their vocational guidance.

### ***Definition of disability***

#### *Legal definition of disability*

The term “disability” refers to the social disadvantage or to the limitation or loss of opportunity of a person to participate in community life at a level equivalent to that of the other members. It describes the interaction between the person with disabilities and the environment.

The first definition of persons with disabilities is found in Act No. 53/1992, which provides that handicapped persons are persons who, “due to some physical, sensorial, psychic or mental disabilities, cannot integrate totally or partially, temporarily or permanently, by their own means, in social and professional life, and who require special protection measures”.

Subsequently, this definition was amended by O.U.G. No. 102/1999, which defined handicapped persons as “persons who are disadvantaged on account of physical, sensorial, psychic or mental disabilities that encumber or limit their normal access in equal conditions to social life”.

### ***Statistics***

- *Statistical data (numbers and rates) concerning disability in Romania (number of persons with disabilities and share of persons with disabilities in the active population).*

- *Economic activity of disabled persons (activity, employment and unemployment rates).*
- *How these data are collected.*

**Table 3. People with disabilities employed in the labour market in 2003**

Total number of people in Romania	22 408 393	–
Total number of active people	4 411 400	19.68%
Total number of people with disabilities	423 393	1.85%
Employment rate of people with disabilities	12 775	0.28%
Unemployment rate of people with disabilities	410 616	9.14%

Source: National Labour Market Agency.

Of the 423,393 people with disabilities in Romania, 56,886 are children and 366,507 are adults: of the 56,886 children, 55,984 are in family (non-institutionalized) care and 902 are in residential care (institutionalized); of the 19,860 adults with disabilities, 347,549 are in family care (non-institutionalized) and 18,958 adults are in residential care (institutionalized).

### ***Vocational rehabilitation and employment of persons with disabilities***

#### *Vocational rehabilitation*

The vocational rehabilitation of persons with disabilities is complex and continuing, designed to reintegrate them in society. The means of action envisaged must take into account the person's functional capacities, frame of mind, professional qualifications and social condition.

The principal means employed are medical treatment, psychological assistance, vocational education or re-education, and social insertion.

#### *Training, vocational guidance and job placement*

The National Strategy concerning the special protection and social integration of handicapped persons in Romania has proposed the following targets:

- (1) Professional guidance should be dispensed to handicapped persons so that, depending on their *remaining functional potential*, a *vocational role* can be identified that enables them to learn a profession corresponding to their actual skills.
- (2) The identification of a handicapped person's vocation is made on the basis of specific tests conducted by specialists. An assessment is thus made of the handicapped person's *skills* and ability to work separately or in a group, according to indications or following a plan (in case of activities which require precision). The *conduct* of the person with deficiencies is also appraised, having in view certain personal qualities.
- (3) Finally, occupational therapy programmes are designed that take into account the person's preferred activities, economic usefulness at the social level, and a minimum acceptable remuneration.

Depending on age and on the degree and type of handicap, various guidelines are set for the person's vocational rehabilitation.

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### *Employment of persons with disabilities*

The aim should always be for persons with disabilities to obtain employment in the open labour market. For persons with disabilities whose needs cannot be met in open employment, small units of sheltered or supported employment may be an alternative. Provision has been made for equitable recruitment policies, employment conditions, rates of pay and measures to improve the work environment in order to prevent injuries and impairments. Favourable conditions for the employment of persons with disabilities in the public sector have been created.

The action programme includes:

- (a) measures to design and adapt workplaces and work premise in such a way that they become accessible to persons with different disabilities;
- (b) support in the use of new technologies and the development and production of assisting devices, tools and equipment and measures to facilitate access to such devices and equipment for persons with disabilities to enable them to gain and maintain employment;
- (c) provision of appropriate training and placement and ongoing support (such as personal, assistance and interpreter services).

The support offered to integrating persons with disabilities into open employment includes a variety of measures:

- vocational training;
- incentive-oriented quota schemes;
- reserved or designated employment;
- loans or grants for small business;
- exclusive contracts or priority production rights;
- tax concessions;
- contract compliance.

### *The quota-levy system*

The quota-levy system is used in Romania for the integration into the labour market of persons with disabilities. This involves the penalization of those employers with a certain number of employees (over 100) who have not employed at least 4 per cent of persons with disabilities (according to article 42 of Act No. 519/2002). The quota-levy system is frequently used in the European Union countries but not systematically, because it has been found that the quotas are often not respected, that this is not punished and that employers would rather pay the corresponding penalties than employ persons with disabilities.

### *The structure of the labour market for disabled people*

In Romania persons with disabilities may be employed in the normal work environment (with or without protection of the workplace), in protected units, by home work, or in occupational therapy units.

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*Measures in favour of the employment of persons with disabilities in the sheltered and open labour market*

- (1) Creation of training and employment opportunities.
- (2) Inclusion of persons with disabilities in training and employment programmes in the private sector.
- (3) Flexible hours of work.
- (4) Part-time work.
- (5) Job-sharing.
- (6) Self-employment and attendant care for persons with disabilities.

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## **Slovakia**<sup>4</sup>

*Ms. Lydia Brichtova, Ministry of Labour, Social Affairs and Family, Slovakia*

The Constitution of Slovakia (article 38) stipulates that persons with disabilities classified as risk groups on the labour market are eligible for increased occupational health protection and special labour conditions, as well as special protection in labour relations and for assistance in preparation for occupation.

### **Labour Code**

#### **Employment Act**

Legislative changes planned:

From 1 January 2004, a new Services for Employment Act will introduce changes in the employment of citizens with disabilities.

The main changes are:

- new definition of disability (wider definition);
- job assistant (state benefit for the salary of a job assistant for employers who employ citizens with disabilities);
- agencies for supported employment of people with disabilities (non-governmental, non-profit organizations; financial support for running supported employment activities);
- information centres for people with disabilities (information on technical adaptation of workplaces for employers and persons with disabilities).

The new Social Insurance Act provides for a disability pension. Disability pensions will be paid based on working ability (varies from 0-100). A new Employment Act provides support for persons with a disability pension.

### **Definitions**

Statistics: Employment rate overall 57 per cent, unemployment rate 14 per cent.

Labour rehabilitation: includes consultation, vocational training, labour agency, creation of adequate working conditions.

Quota-levy if employer has at least 20 employees.

Financial support intended for employment of citizens with disabilities.

<sup>4</sup> See also the annex: "National Reports on Vocational Rehabilitation and Employment of Persons with Disabilities".

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## Hungary

*Ms. Csilla Szauer, Adviser, Ministry of Employment Policy and Labour*

### **The situation of people with disabilities in Hungary**

#### Legal background

Act XXVI of 1998 on rights and equal opportunities for disabled people has been a milestone in Hungary.

In addition to the determination of rights, the Act aimed at defining tools for the enforcement of these rights as well as complex rehabilitation regulations for disabled people (environment, communication, transport, support services). The objective of all of these improvements is equal opportunities, independent life and active participation in social life for people with disabilities. Equal opportunities refer specifically to health care, education and training, employment, dwelling, culture and sport.

The Act is the framework for the long-term realization of objectives which are fundamental to the concept of equal opportunities, while the National Disability Affairs Programme (enacted by resolution of Parliament No. 100 of 1999) contains measures and tasks aiming at the Act's implementation. These tasks must be put into practice when planning health care, employment, transportation and education for disabled people and in the process of decision-making on the development of settlements and on all issues which fall under the responsibility of the State. The Programme covers the following issues:

- presentation of the social situation of disabled persons;
- determination of rehabilitation tasks;
- arrangements to bring about a favourable change of attitude in society towards disabled people;
- identification of requirements for the promotion of disabled people's and their families' quality of life (living standards);
- better and active integration of people with disabilities into social life;
- adaptation of transport systems, physical environment, education and employment to the socially acceptable demands of the disabled;
- instruments, institutions and financial resources which are required to the attainment of the aims set.

The Government is required to report on the implementation of the Programme to Parliament. Parliament evaluates the resolution at least every four years and, if necessary, revises it. Government resolution No. 2062 of 2000 on mid-term arrangements for the implementation of the National Disability Affairs Programme appointed responsible persons and institutions and set deadlines for the fulfilment of the specific tasks set.

Pursuant to paragraphs 24 and 25 of the Equal Opportunities Act, the National Disability Affairs Council was established on 19 January 1999 to support the Government in the implementation of its tasks in respect of disability issues. The Council gives opinions on bills concerning disabled people, makes proposals regarding decisions, programmes and regulations aimed at this group of people and participates in the

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coordination of activities. The Council reports to the Government on changes in disabled people's living situations on a regular basis and follows up the implementation of the Programme. The Council is comprised of representatives of the Government and civil organizations as well as of members of associations representing disabled people.

The Council runs a Disability Civic Workshop, which plays an important role in wide-ranging negotiations and discussions with disabled people.

The Council is the member of the international organization Rehabilitation International.

The Government of Hungary has established a Public Foundation for Disabled People to cooperate in the implementation of public tasks set out for the improvement of the rights and equal opportunities of disabled people. The Public Foundation was registered as a public utility organization on 24 June 1999 and aims to promote equal opportunities and the social integration of disabled people, the harmonization of activities of persons and organizations that take part in the rehabilitation of disabled people and the publicizing of those activities.

### ***Access to vocational training and employment***

Under the Act on Rights and Equal Opportunities, disabled people have the right of access to integrated or sheltered employment. Employers are therefore obliged to adapt the working environment to the needs of disabled people, if necessary with appropriate transformations and equipments (supporting devices) which may be financed in part by the central budget. If the health of the disabled persons is such that they cannot be employed in an integrated environment, special workplaces have to be established for them to exercise their right to work.

The Labour Code, which plays an important role in vocational rehabilitation, states that employees must not be discriminated against on the basis of their disabilities; at the same time it offers protection against such discrimination (this has been extended to activities prior to employment).

Disabled people face a risk of exclusion from the labour market. In 2002 the Central Statistical Office made a survey of the disabled population. The presence of people living with long-term health problems is marginal on the labour market. Out of 656,000 people qualified as being of working age and complaining of prolonged health problems, less than 95,000 were present on the labour market, including nearly 10,000 unemployed. The majority of people living with health problems or disability receive disability pensions and benefits.

In spite of an Act which makes it obligatory for employers to recruit no fewer than 5 per cent of their employees from among people with disabilities, a relatively low number of employers meet this target; many would rather pay the rehabilitation contribution than employ disabled people. The employment opportunities of this group of people are further reduced by the low number of accessible facilities, institutions and public transport vehicles.

Vocational rehabilitation has now been integrated into the organizational control and service system of Hungary's labour offices. The Public Employment Service has a three-member rehabilitation group at each county job centres to assist the integration into the open market of people with disabilities. According to the experience gathered in the last five years, nearly 40,000 people participate nationwide in the rehabilitation process annually.



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Both the available services (information, consultancy and job-seeking courses) and the active measures provided for by the Employment Act (labour market training, job creation subsidies, wage subsidies, etc.) are conducive to the integration into the labour market of the unemployed and the inactive, and pave the way to their social integration. Every year, a quarter of those contacting the labour market organizations (on average 10,000 unemployed people with disabilities) are employed as a result of the complex vocational rehabilitation procedures.

In the framework of labour market services it is also possible for public utility organizations to cooperate with labour centres by undertaking certain tasks, such as supported employment services, personal assistance, employment of mentors, various training courses, etc.

Financial support is received from the Labour Market Fund, especially as regards rehabilitation. There are 11 Rehabilitation Information Centres associated with the county labour offices, where the various services, physical environment and information are accessible for people with disabilities.

The rehabilitation programme for micro-areas trains people with disabilities to help each other to search for and find jobs.

Hungary's PHARE programme aimed at the systematic development of the rehabilitation tools of employment was launched in three regions of east Hungary. Hungary also has a programme to assess the experience of non-profit organizations and to pave the way towards the regulation of the various protected forms of employment.

### ***New initiative***

In the summer of 2003 a Governmental Office of Equal Opportunities was set up to coordinate the activities of the different ministries on the field of gender mainstreaming, *Roma* issues and disability affairs.

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## Latvia

*Ms. Agnese Circene, Ministry of Welfare, Latvia*

### **Special entitlements for persons with disabilities and employers' responsibilities**

Vocational rehabilitation services for disabled persons are provided outside the education system. Such social services are a crucial factor in providing opportunities for disabled people to integrate into the labour market and from there into society.

There are two institutions in Latvia that provide vocational rehabilitation services: the Vocational Training and Rehabilitation Centre "Alsviki", and College RRC.

The Vocational Training and Rehabilitation Centre "Alsviki" offers secondary education while College RRC offers higher education.

Centre "Alsviki" provides vocational rehabilitation for disabled persons with primary education and teaches them skills such as dressmaking, shoemaking, craftsmanship and domestic service.

College RRC provides vocational rehabilitation for disabled persons with secondary education and has a wide variety of programmes for different levels of skills. Services are provided for both young people and adults, and participants can choose daytime, evening or distance education classes.

The College makes an evaluation of people's vocational suitability and helps them to acquire skills in economics, bookkeeping, industrial marketing, electronics, social insurance, commerce, cooking, etc.

The College is a modern, technically well-equipped vocational training institution suitable for disabled persons and affording excellent rehabilitation results.

Since the vocational rehabilitation services are based on an assessment of individual needs and rehabilitation plans and involves cooperation with potential employers and other institutions, up to 80-90 per cent of the students find employment after the rehabilitation process.

Persons, including disabled persons, who are unemployed and looking for work and who do not receive state support (i.e., who are not involved in active employment activities defined in the Unemployed and Jobseekers Support Act (vocational training, further training, retraining, paid temporary community jobs, activities for the competitiveness, activities for specific group of persons), experience difficulty in returning to the labour market. They are therefore entitled to apply to local institutions of the International Labour Organization for unemployment status, as defined by law, and to participate in the abovementioned active employment activities. Involving the unemployed in these activities motivates them to seek jobs actively and adapt to the demands of the labour market for a capable and trained labour force, thereby enhancing unemployed persons' competitiveness and their involvement in the labour market.

On 30 June 2003 2,746 unemployed disabled people were registered with the State Employment Agency, 800 more than a year before.

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Between 11 March and 5 April 2003, the International Labour Organization conducted a survey of unemployed disabled persons regarding their desire to participate in subsidized employment activities. According to the results of the inquiry, 758 persons expressed the wish to participate in said activities.

According to information provided by the International Labour Organization, 458 unemployed disabled persons were involved in subsidized employment activities as at 18 September 2003.

In the framework of subsidized employment activities, unemployed disabled persons are engaged in different occupations, including professions demanding high qualifications. For example:

- 18 disabled persons in accountancy;
- 20 disabled persons in secretarial work;
- 21 disabled persons in social work;
- 12 disabled persons who work as computer operators.

It may thus be concluded that the problem of employment of disabled people exists. It is society's attitude towards persons with disabilities which is the major problem. Though legislation offers tax rebates for employers who engage disabled persons, it does not otherwise encourage them to employ disabled people.

However, Latvia is aware of the situation and is working on solving the problem by means of increasing the availability of State budget resources for vocational rehabilitation and by developing subsidized workplaces for disabled persons.

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## Albania

*Ms. Anila Selmani, Ministry of Labour and Social Affairs, Albania*

In the beginning of the 1990s the changing economic system in Albania brought massive unemployment, structural changes and demands on the labour market. Different groups of people were affected by massive unemployment. However, one of the most affected groups was that of persons with disabilities, work invalids, etc., who lost their jobs and had very little opportunity to find suitable work.

Because private employers were disinclined to employ persons with disabilities, it proved necessary to enforce the obligation on employers to employ them. There are now standards and obligations that constrain employers to employ persons with disabilities.

The standards and obligations for the employment of this category of people are defined in the new labour legislation. The Employment Promotion, State Labour Inspectorate and Education and Vocational Training Acts and the Strategy on Employment and Vocational Training, define standards of employment of this respect.

### **I. Legislation supporting the employment of persons with disabilities**

Article 15 of the Employment Promotion Act No. 7995 of 20 September 1995 introduced the concept of a mandatory quota whereby each employer is required to hire persons with disabilities. "Every employer that employs more than 24 employees is required to employ a person with disability for every 25 employees." Also: "An employer can and should employ a heavily disabled person instead of five moderately disabled people".

Article 16 of the same Act provides for employment promotion for persons with disabilities, by offering incentives and advantages to employers. To equip the workplace and provide better working conditions, an employer can request a subsidy from the Office of Employment. Also, the salary of persons with disabilities is not taxable up to a certain level determined by the Council of Ministers.

In addition to the standards, incentives and advantages mentioned above, there are penalties for employers who fail to implement the law. According to article 15, employers who do not employ the mandatory number of persons with disabilities are required to pay into the National Fund of Employment an amount of money equal to the minimum monthly salary of each person with a disability they were required to employ.

Although efforts are being made especially by the State Labour Inspectorate to enforce the labour legislation, the articles mentioned above are not widely applied, for various reasons:

- the number of employers that employ more than 25 workers is low;
- the sanctions provided for under the law are not properly applied, if at all;
- illegal employment is high.

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## **II. Employment programmes for persons with disabilities**

The vocational rehabilitation of persons with disabilities is another means of tailoring their abilities to the requirements of the labour market and creating more opportunities for employment. In a separate chapter on the employment of persons with disabilities, Act No. 7995 provides for vocational rehabilitation in cases where they can profit by it and have a reasonable prospect of finding and keeping a suitable job.

Through the Employment Office the State takes all necessary practical measures to create and develop specialized training services for persons with disabilities and to help them change or choose a job.

According to the Education and Vocational Training Strategy adopted this year, persons with disabilities are among the groups with socio-economic difficulties. These groups will be given priority in obtaining vocational training and employment.

Concrete support will consist of:

- reduced fees for vocational training institutions;
- priority access to labour market programmes implemented by the Ministry of Labour and Social Affairs.

The Strategy includes supporting programmes for employers that employ people from groups in need, among which are persons with disabilities. These supporting programmes are in the form of financial support for mandatory social insurance, salaries, and other additional expenses necessary for their employment.

In 2004, it is planned to start a programme of employment promotion for women over 35 years of age. This category will include female heads of households, women with disabilities, trafficked women and women from the *Roma* community. As previously stated, employers who employ women in this category will receive a subsidy for mandatory insurance and a percentage of the salary.

The Education and Vocational Training Act No. 8872 of 29 March 2002 places persons with disabilities among the main beneficiary groups. Vocational training institutions are public and private centres which offer vocational training courses.

The Albanian Government and civil society in general are aware that employment is a basic element of each person's life and, as such, ensures the independence and integration of persons with disabilities. Being paid enhances their sense of worth and their contribution to society.

## **III. A National Strategy for persons with disabilities**

As part of the National and European Year for persons with disabilities, and in order to improve their status in society and provide them with genuine equal opportunities in every sphere of life, the Albanian Government is preparing a National Strategy for persons with disabilities. An inter-ministerial working group has already completed a study with the participation of non-profit organizations working with persons with disabilities, which will draw attention to the problems they face, their treatment and the creation of opportunities for them to become independent and enjoy equal opportunities in education, employment and other aspects of life.

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#### ***IV. New standards and regulations for buildings providing services for persons with disabilities***

An important factor is the suitability of buildings and general environment for persons with disabilities. In cooperation with the Albanian Foundation for the Protection of the Rights of People with Disabilities, the Ministry of Territorial Development and Tourism has devised urban standards and regulations to make new and existing buildings accessible to disabled people. The National Council will soon adopt these standards and regulations.

These standards, once in force, are expected to facilitate the movements of persons with disabilities and afford them more opportunities of employment. Their employment must be each State's responsibility and a dignifying act for each employer.

The past years have seen the establishment of sheltered businesses for the employment of persons with disabilities. Non-profit organizations, with the support of the State, have provided wheelchairs and other equipment for persons with disabilities. Through the facilities it has created for the purpose, the State provides financial support for the production of mechanical equipment.

There have been some successful initiatives whose main goal was to employ persons with disabilities and other groups with special needs. The State's responsibility is to ensure the pursuit of these initiatives and the promotion of employment for these groups.

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## **Czech Republic**

*Ms. Jana Majerova, Czech Republic*

### **Definition of disability**

The labour legislation of the Czech Republic distinguishes between two categories:

- (1) persons with a reduced ability to work, i.e. those whose chances of employment, or possibilities of training in preparation for employment, are substantially limited on a long-term basis due to their unfavourable health condition;
- (2) persons with reduced ability to work with severe health problems, i.e. those whose possibilities of finding employment including training in preparation for employment are extremely limited, and who can perform work only in a limited number of jobs, sometimes only under special working conditions.

### **Statistics**

Unemployment among the disabled is a serious problem, as the figure rose from 20,016 at the end of 1993 to 59,025 at the end of the year 2000, following a revision of the definition of full and partial invalidity. At the end of 2001 the number was 61,518. One problem is the substantial shortfall in vacancies suitable for this group (only 2,108 vacancies at the end of 2001, so there are 29.2 disabled jobseekers for each vacancy).

### **Vocational rehabilitation of people with disabilities**

Employment Act No. 1/1991 Coll

Disabled citizens are to be provided with rehabilitation as part of continuous care aimed at making it possible for them to perform their existing job or another suitable job; this includes consultancy services relating to the selection of an occupation, job training, job placement and the creation of suitable conditions for the performance of work.

Decree No. 115/1992 – Providing vocational rehabilitation for people with disabilities

Persons with a reduced ability to work and/or with a reduced ability to work with severe health problems are entitled to claim employment which is in accordance with their state of health and abilities. Vocational rehabilitation is provided by the Labour Office, mostly in the form of consultancy services. The Labour Office helps to choose suitable employment. Preparation for employment can be funded by the Labour Office on the basis of a contract.

Preparation for employment takes place at:

- individually adapted workplaces;
- sheltered workshops and workplaces;
- other establishments suitable for such activity.

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In the Czech Republic a sheltered workshop is a place where more than 60 per cent of the employees are people with a reduced ability to work. A sheltered workplace could also be a person's own home. The Labour Office provides employers with financial assistance to establish and maintain a sheltered workplace. This financial assistance can also be given to a self-employed person. The conditions concerning financial support are stated in the contract. The workplace must be maintained for at least two years.

### ***Employment of people with disabilities***

In the Czech Republic the Employment Act states that it is a legal duty to employ a certain proportion of people with disabilities. Each employer is obliged to employ a mandatory quota of disabled people as part of his labour force. The mandatory quota for an employer employing over 25 employees is 4 per cent.

An employer fulfils his duty to employ the mandatory quota of disabled by:

- employing the mandatory quota of disabled people; or
- taking products from employers whose labour force includes more than 50 per cent of disabled employees, or by placing production programmes with such employers, or by taking products from protected workshops operated by non-profit organizations, or by a public service company, or by placing production programmes with such entities; or
- by paying a levy into the state budget. The amount of the annual levy is based on the number of disabled people by which the employer fails to meet the mandatory quota and is calculated in respect of each person not so employed.

An employer may fulfil his mandatory quota duty by a combination of the abovementioned methods. For the purposes of employing disabled people in accordance with the mandatory quota, each person with a reduced ability to work with severe health problems is credited three times to the mandatory quota. In 2002 only 3.3 per cent of the quota was fulfilled.

#### **Financial assistance for employers whose labour force includes more than 50 per cent of disabled employees**

The Employment Act provides for financial assistance for employers who adjust their production programme and working conditions in order to employ disabled people. The purpose of the grant is to compensate employers for the increased expense of employing disabled people owing to the necessary organizational, technical and personal measures, adaptation of workplaces, organization of production and business activities and such employees' higher sickness rate and reduced labour potential.

Employers whose labour force includes more than 50 per cent of employees with a reduced ability to work can receive grants for further investment in their company (purchase of machinery, vehicles and building and reconstructing of workplaces). They are also entitled to non-interest-bearing loans for the purchase of production equipment. Grants and loans are provided by the Ministry of Labour and Social Affairs, but the application is submitted to the Labour Office by the employer. The Labour Office processes each application, taking the region and situation of the labour market into consideration. These grants and loans ensure increasing opportunities for people with disabilities.



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## The Republic of Moldova

*Mr. Ion Holban, Ministry of Labour and Social Protection, the Republic of Moldova*

The transition from one socio-economic system to another remains a complex and difficult process which affects, more or less, all socially vulnerable categories of the population.

Among the problems faced in the Republic of Moldova are: job reduction (specifically in rural areas), growth of unemployment, increase in poverty and social inequality, unstable economic growth, increasing violence and all types of abuse, etc. These factors prevent the social integration of people with disabilities. The economic conditions in the Republic of Moldova are still not favourable. There is some economic growth but it is not very substantial; for example, the GDP grew by 6 per cent compared to the previous year, but remains low. High unemployment has led to a deterioration in the quality of life. In addition, approximately one-third of the labour force works abroad; the return of this proportion of the population would increase the unemployment ratio significantly.

Former policies for people with disabilities focused on social benefits and special treatment facilities. This separation from the normal direction of society led to a passive way of life, however, and contributed to an exclusion “stereotype”, and thus to a lack of self-confidence and of equal opportunities among people with disabilities.

It has been estimated that in the Republic of Moldova there are approximately 20 to 30 job applicants for each vacancy. The Government has developed measures to tackle the unemployment problem, taking into account EU and ILO standards and the Central European Initiative.

In general, the legislative and institutional framework regarding the vocational rehabilitation and employment of people with disabilities is based on the principles of equal opportunities and equal treatment. The rights of people with disabilities are covered in the Constitution and also in specific disability laws on, for example, unemployment and social protection. There are also programmes on social rehabilitation and employment which specifically focus on disabled people. Some initiatives exist to improve the quality of life of disabled people.

Companies that employ the disabled are entitled to tax benefits, especially companies that employ 50 per cent or more; these companies do not have to pay VAT and also their social contribution is small.

It is planned to establish employment agencies for the disabled, and to create a national employment institute with a special department for the disabled. A network of employment services will, in 2004, start subsidizing companies that provide employment for the disabled and offering them cheaper loans.

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## Slovenia

*Ms. Aleksandra Tabaj, Slovenia Ministry for Labour, Family and Social Affairs, Slovenia*

### **Supported employment in Europe**

#### Background

Economic transition and structural changes have caused much bankruptcy and unemployment. The unemployment of the disabled in Slovenia has been increasing since 1990. While in recent years the common level of unemployment is decreasing, the level of disabled persons who are unemployed is increasing.

#### Purpose of the study on supported employment

The new economic paradigm has led the Government to table a new bill on employment and training for the disabled. As the main thrust of the bill is supported employment (SE), the Government wishes it to reflect the best practices of the countries studied.

Research started on February 2002 into the competent ministries of the European Union, Norway, Switzerland, the United States of America and Canada. The deadline for collecting the questionnaires and materials was 31 July 2002. The questionnaire contained 16 questions, which were divided into six chapters:

- Statistics and definitions
- Organization and regulation
- Methods, techniques and forms of support
- Evaluations
- Employers
- Comments

Replies were received from Austria, Germany, Great Britain, Belgium, Finland, Sweden, Ireland and the Netherlands – Switzerland, Italy and Luxembourg did not answer. Mainly countries did not reply to the questions, but sent material which had been prepared previously. To support the study, articles were consulted from the *Journal of Vocational Rehabilitation* (for the United States), the Helios report 1994-96 and material from the EUSE conferences.

Definitions vary:

Country	Definitions
Sweden	Job coaching on open labour market
Austria	Integration on open labour market ( <i>Arbeitsassistentz</i> )
Great Britain	Job coach and personal counselling
Germany	Vocational integration in centres for integration
Ireland	Open labour market initiative with the support of job coach
Finland	Job coach, paid work on the open labour market
Belgium	Personal assistance and support on the working place plus subsidies
Netherlands	All labour which cannot be carried out without support and/or adaptation
United States	Work in integrated environment

The Netherlands also uses sheltered employment. In Germany supported employment is rare. Only Finland has a new structure; all other countries use existing structures.

#### A. Methods and techniques and forms of support

Country	Categories of disabled persons	Number of disabled persons
Sweden	Mainly persons with severe disabilities, but not restrictions	1 200 (2001)
Austria	Mental health problems (42%), intellectual (16%), physical (15%)	8-9 000 (2001-02)
Great Britain	Visually impaired, hearing impaired, physically impaired, mentally disabled	16 357 (2000)
Germany	All persons with disabilities on open labour market	842 700 (2000)
Ireland	All persons with disabilities	900 (2001)
Finland	Mostly persons with learning disabilities (43%)	250 (1999)
Belgium	/	274 (1998-1999-2000)
Netherlands	Depends on the disability (connected also to productivity)	90 000 (2001)
United States	Intellectually or mentally disabled	140 000 (1995)

#### B. Organization and regulation

Country	Resources for financing	Total sum (in million euros)	Agency which coordinates activities
Sweden	Employment office – rehabilitation	8.2 in last five years	Employment office – rehabilitation
Austria	ESF, FMSSG*, PES*, SII*, regional authorities	1.5 in 1990 5.6 in 1999	Government initiative, performers are mainly NGOs
Great Britain	Employment service, job centres, disability service team	6.23	/

Germany	FLO*, public pension insurance, public accident insurance	3.68 in 2000	ACC, SOC, health, pension and social insurance, Federal Employment Office
Ireland	Department of Enterprise, Trade and Employment	In 2000 (/)	FAS
Finland	Public financing, ESF, Ray-Finland, slot machine association	/	Finish Network of SE-FINSE, FPED Foundation
Belgium	Public foundations	1.5 in 2000	Active labour market programmes
Netherlands	Ministry for Social Affairs	1.9 per year	Social Workshops United in National ORG-NOSW
United States	Basis is Rehabilitation Act	/	Vocational rehabilitation

### C. Methods, techniques and forms of support

- Job coach or job assistant (support, counselling, searching, ...)
- Adaptation of work or home environment
- Equipment (technical, work, personal)

Austria	Time of counselling – one year or more
Great Britain	Interpreting for the deaf and the hard of hearing, assistance for blind and visually impaired, information for employers, subventions to the employers
Germany	Job preparation (training and education), financial aid (employment, ltd,...), psycho-social assistance
Ireland	Job training and education, consulting for employers and co-workers
Belgium	Subsidizing of wages
Netherlands	Reimbursement of costs for reduced capacity

### D. Evaluation studies and results

Austria	1995-1999: 3 300 positive interventions (employment at least for six months; rate 43-50%) 1999: 83 projects (5.6 million euros) and 174 (employment) job assistants 1998: employers not satisfied with implementation (40%) Recommendations: Openness of the market and definitive questions, more effective programme of administration, clearly defined success rate criteria, job coaches focus on employment efforts and general counselling, better selection of the disabled (creaming problem)
Germany	1995: The study "Supported employment for people with disabilities" followed seven three-year SE projects in Westfalia-Lippe
Ireland	Study in 2002
Netherlands	Evaluation from 1998 Results: Amended version of the instrument Sharper delimitation of the target group Reassessment of WSW – employees every 2-3 years
United States	20 studies on effectiveness of supported employment Finding: Supported employment is more effective than sheltered employment, after four years effectiveness of programme is bigger than costs

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## Belarus

*Mr. Valeriy Pavlov, Deputy Minister of Labour and Social Protection, Belarus*

In Belarus people with disabilities are covered in various pieces of legislation, including the Constitution, the Labour Code and the law on avoiding accidents. The objective of the laws is to limit the occurrence of disability and to integrate people with disabilities into society. The National Council on Disability includes representatives of the government authorities, non-governmental organizations and other relevant bodies.

It is estimated that the population of disabled people is 450,000 people, out of a total population of 10 million. Approximately 5 per cent of the population is war disabled. An estimated 1.5 per cent of the unemployed are disabled.

A new law on special training is before Parliament, where an important role was played by NGOs.

Rehabilitation is provided in various life-phases and includes both medical and vocational rehabilitation. Vocational rehabilitation includes professional reorientation, vocational training and employment with necessary adaptations. The public employment offices assist in finding jobs.

In Belarus there are ten companies which employ deaf people, 20 companies employing blind people and 150 companies which employ people with disabilities. Employers who employ people with disabilities are granted tax benefits and may also be entitled to partial reimbursement of salaries. Self-employment is promoted for people with disabilities; for example, training has been provided in entrepreneurship skills. Disabled entrepreneurs are allowed tax relief and are eligible for financial assistance.

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## Ukraine

*Mr. Victor Diatchenko, Deputy Minister of Labour and Social Policy, Ukraine*

In Ukraine the transition to a market economy has brought significant changes; a change has also occurred in the understanding of disability. Recent history has included the signing of international instruments; Ukraine ratified the ILO's Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) in 2002. The year 2003 was declared the Year of People with Disabilities, as in the European Union.

Promoting self-employment is one of the ways used to employ people with disabilities. The following policy aims are laid down in the Constitution and other regulations:

- vocational training;
- equal access to work;
- support for rehabilitation;
- development of the rehabilitation system – also in rural areas.

The Government works in collaboration with employers and non-governmental organizations at both the national and the local level.

Improvements are also occurring in the social protection of the unemployed and people with disabilities. The estimated proportion of the population with disabilities in Ukraine stands at 5 per cent; and it has been estimated that there has been a constant increase during the last 10 years, and this trend is continuing. The rising number of the disabled increases the burden on the social security system.

In Ukraine a National Council for the Disabled has been established by the Council of Ministers; it includes representatives of the government, non-governmental organizations and other relevant representatives. In addition, the medical services and rehabilitation services have recently been analysed in order to improve them.

Vocational rehabilitation for people with disabilities is a holistic structure. There are 38 rehabilitation centres in Ukraine, but only 14 of them have appropriate equipment. The State supports the centres financially. Ukraine has benefited from the support of the ILO in establishing a vocational rehabilitation centres; it also has some collaboration with Austria. The first stage of the three-stage vocational rehabilitation model for people with disabilities in Ukraine involves the expert services of health, labour and social care workers, the labour inspectorate and NGOs; the second stage involves the analysis of vocational rehabilitation; the third stage involves participation in employment. Vocational training can also be obtained at the workplace itself.

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## 4. Conclusions and recommendations

- General principles:
  - All policies concerning the vocational rehabilitation and employment of persons with disabilities should be based on a recognition of their civil rights.
  - The basic objective of these policies should be to increase the percentage of people with disabilities at work.
- The implementation of laws and policy should be improved through:
  - minimizing restrictive provisions and over-regulation, while prohibiting discrimination, in order to guarantee but not limit vocational activity and enable disabled workers to chose between entitlements;
  - improved information, advice, incentives and support to employers to facilitate the employment of persons with disabilities;
  - individual tailoring of workplace provisions to accommodate disabled persons;
  - reviewing the operation of quota/levy systems and related incentives and support services;
  - effective involvement of employer representatives, representatives of disabled persons and worker representatives in the review process, as well as more generally in the planning, monitoring and evaluation of implementation;
  - improved coordination of and collaboration between the programmes and services of different government ministries, in particular active labour market policies on the one hand and disability benefit and pension schemes on the other;
  - strengthening the advisory role of the Labour Inspectorate and other relevant agencies in advising and informing employers and people with disabilities about their legal rights and obligations.
- Improve the employability of women and men with disabilities through:
  - providing a comprehensive programme of vocational and social-skills training including:
    - basic skills training;
    - vocational skills training, which reflects labour market opportunities and trends, in a variety of settings and forms:
      - *mainstream training centres;*
      - *special training centres;*
      - *in the workplace;*
      - *apprenticeships;*
      - *distance learning using Information and Communications Technology (ICT);*

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- training in job-seeking skills;
  - preparation in workplace behaviour;
  - involving employers in identifying required skills;
  - developing a range of employment options in consultation and collaboration with employers, including:
    - work trials/internships;
    - supported employment placements;
    - open employment placements;
    - telework;
    - self-employment.
  - developing a range of employment-related advisory and support services, including effective job placement services provided by the public employment service and/or non-governmental organizations;
  - encouraging employers to set up mentoring programmes in the workplace;
  - ongoing collaboration between public authorities, non-governmental organizations of and for people with disabilities, employer/employee organizations.
  - Review approaches to vocational assessment to:
    - focus on abilities rather than disabilities;
    - involve a range of professional expertise including occupational health medicine where appropriate.
  - Provide effective job-placement services for jobseekers with disabilities through the public employment services and/or through non-governmental organizations in the full range of occupations by:
    - providing training courses, guidelines for personnel in public employment services and services provided by non-governmental organizations.
  - Reform disability benefit and pension schemes to remove conflict with active labour market policies, with a view to:
    - focusing on abilities rather than disabilities;
    - removing the “benefits trap”;
    - increasing the motivation of disabled persons to work;
    - bridging the transition from pensions to employment;
    - increasing the percentage of disabled persons at work.



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- Introduce schemes of financial support which recognize the higher living costs associated with disability.
  - Use different criteria of eligibility (definitions of “disability”) for job-related services and disability benefits/pensions so that all persons with disabilities who wish to work are supported in finding jobs.
  - Build a positive image of the working capacity of disabled persons, in collaboration with the media, through awareness-raising, sensitization and information campaigns targeted specifically at:
    - employers;
    - employees, through workers’ organizations;
    - media professionals;
    - people with disabilities and their families, with particular emphasis on women, people with severe or multiple disabilities, people in rural areas and people facing multiple disadvantage (such as disabled persons from ethnic minorities);
    - school children;
    - the public at large.
  - Develop national and international networks with the aim of:
    - information exchange;
    - dissemination of good practice examples;
    - future cooperation.
  - Centres which provide work opportunities for disabled persons only should:
    - be considered as an option only when other feasible alternatives have been explored;
    - be reorganized to promote movement of people with disabilities to more open employment options;
    - improve working conditions in line with national labour standards.
  - The public sector should take the lead in being a good practice employer of disabled persons.
  - Particular attention should be paid to the needs of:
    - people with disabilities in rural areas;
    - people with severe or multiple disabilities;
    - women with disabilities;
    - disabled persons facing multiple disadvantage.

## **Annex – National reports**



**NATIONAL REPORTS**

**ON**

**VOCATIONAL REHABILITATION**

**AND EMPLOYMENT**

**OF PERSONS WITH DISABILITIES**

***POLAND, October 2003***



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## Albania

### Legal framework and main directions

The legal framework for the improvement of the economic and social status, as well as the guarantee of equal opportunities for people with disabilities in Albanian society, has been improved gradually. This is a result of requests of people with disabilities, lobbying by groups and organizations that protect and represent their rights and interests, growing public awareness and the Albanian Government's will to support this group with real possibilities, so they can function as individuals, as family members and as part of the community where they live.

The legal framework deals with people with disabilities from different aspects: the social aspect, by guaranteeing them the equality of their rights and non discrimination regarding the education, employment, etc.; the medical aspect, by assuring the right to medical care and the reimbursement of some medicaments; and the economic aspect, by means of legal provisions governing pensions and payments in cash for improving their economic status. People with disabilities have priority as regards housing, telecommunications and other areas.

The State supports, according to its possibilities, the organizations of people with disabilities and considers these groups as partners in the compilation and adoption of legal acts, policies and programmes for people with disabilities.

The main legal Acts with regard to disability are:

- Act No. 7703 of 1 May 1993 on Social Insurance in Albania insures the individual that contributes in the case of temporary disability or invalidity resulting from an occupational accident or disease.
- Act No. 7710 of 18 May 1993 on Assistance and Social Care provides economic assistance to people born with physical and mental disabilities or who acquire them before the age of 21, blind people, invalids and tetraplegics and work invalids.
- Act No. 7889 of 14 December 1994 on the Status of Invalids, as well as the legal Acts made under it, protects people suffering from occupational accidents.
- Act No. 8098 of 28 March 1996 on the Status of Blind People, as well as the legal Acts made under it, protects blind people.
- Act No. 7663 of 20 January 1993 on the Status of War Invalids protects the victims of the war against the Nazi fascist occupation of Albania.
- Act No. 7870 of 13 October 1994 on Health Insurance in Albania protects people that have contributed before becoming disabled.
- Act No. 8626 of 22 June 2000 provides protection for tetraplegics.
- Act No. 8092 of 21 March 1996 provides protection for people with mental health problems.

The Albanian Constitution prohibits discrimination and assures equality for every Albanian citizen. Such equality is reflected in article 49 about employment. "Everyone has the right to earn a living through legal work that has been freely chosen or accepted." A person is free to choose the kind of profession he or she wants, as well as the working place and the skills system. Employees have the right to social protection.

The Labour Code prohibits discrimination in employment. People with disabilities have the right to work in appropriate jobs according to their abilities and according to the evaluation of the Medical Commission Assessing Abilities to Work. Employers are obliged to provide appropriate working conditions and facilities for people with disabilities. Working time for people with disabilities should not exceed six hours a day.

Act No. 7995 of 20 September 1995 on Employment Promotion provides for the right of all Albanian citizens to engage in profitable employment, to appropriate consultation and to personal training. The Act also provides for vocational rehabilitation and other forms of employment support for people with disabilities.

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The employment of people with disabilities based on their abilities is also an entitlement by virtue of their status as a special group with disabilities such as: work invalids, blind people and tetraplegics, as well as in the sublegal acts.

All the legal provisions mentioned above, as well as the regulations made under them, prohibit the discrimination, abuses and humiliation of people with disabilities.

Legislation has been steadily improving. The general mentality towards people with disabilities has changed, and they are now directly involved in policy discussions and relevant laws.

Organizations of people with disabilities have made an important contribution to replacing discriminatory and humiliating language with more compassionate or medical terminology to describe disabilities in all their diversity. The mass media and public opinion now usually adopt a more responsible attitude, but there still are a lot of cases where people's disabilities are treated very irresponsibly by the media.

Albanian legislation is up to date and reflects the needs of people with disabilities and the possibilities of the state budget to fulfil their needs. However, even though the legislation is democratic, up to date and compiled according to the standards of developed countries, its practical appliance is often problematic. This is a result of the lack of structures, models and practical means of fulfilling the designated objectives, the lack of necessary funds to meet the financial implication of the law, the poor implementation of certain programmes, etc.

## **Definition of disability**

In Albania disability is defined and evaluated by special interdisciplinary commissions or teams of doctors, paediatricians, etc. The commissions that evaluate disabilities are: the Medical Commission on Assessing the Ability to Work and the Medical Commission on Defining the Level of Blindness. These commissions are under the authority of the Ministry of Labour and Social Affairs and operate in accordance with agreements and policies approved in cooperation with the Ministry of Health. The Medical Commission on Assessing the Ability to Work functions under Albania's social insurance scheme, which is run by the Ministry of Labour and Social Affairs.

People with disabilities are divided in two major groups.

The first disability group consists of people born disabled or disabled before the age of 21 years. The second group comprises people injured at work. The first group receives financial aid and other facilities, including the services of a person to care for them. The second group is entitled to a pension under the Social Insurance Act, based on their contributions before and after the accident, a special payment on account of the disability, and other facilities. The second group consists of victims of occupational accident or diseases, or of other general diseases.

## **Invalids of the National War of Liberation**

The Medical Commission on Assessing the Ability to Work considers people who have lost more than 67 per cent of their working ability as full invalids, and people who have lost less than 67 per cent of their ability as partial invalids. People with disabilities who are not able to take care of themselves according to the Commission's evaluation have the right to chose a person to care for them whose services are paid for. The Medical Commission has branches in 28 districts of the country to evaluate the needs of groups of people with disabilities at the local level. The Head Commission is located in Tirana and supervises the work of the local commissions.

A Medical Commission on Blindness is also located in Tirana. Blind persons receive a pension based on their contributions during their working years, a special payment on account of their blindness, the services of a person to care for them when necessary, and other facilities and priority in housing and telecommunications.

People with disabilities can be classified in three major groups: sensory, which includes people with limited hearing and vision; physical, which includes people in general with limited mobility, such as tetraplegics, occupational invalids, war invalids, etc.; mentally, which includes people with mental health problems or chronic mental diseases.

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## Disability statistics in Albania

There are approximately 76,000 people who have been defined as disabled by the Medical Commissions and who are thus entitled to the abovementioned benefits. The largest group is the occupational invalids, with almost 32,000 people. Some invalids have not come before the Medical Commissions and do not profit from the social insurance scheme, because they were not insured at the time of the accident that caused the disability. During the transition period the informal sector was very extensive and a considerable number of people who suffered accidents at that time do not receive an invalidity pension.

The percentage of people with disabilities compared to the active population is around 3 per cent.

The data on people with disabilities are gathered from the Medical Commissions' evaluations, as well as from the monthly and yearly pensions, payments and other benefits made.

Some 32,000 people with disabilities received invalidity pensions according to statistics for the first six months of 2003 compiled by the Social Security Institution. The average number of blind people is 8,645, while the number of tetraplegics covered by Act No. 8626 of 22 June 2000 on the Status of Tetraplegics is 589. The number of people born with disabilities or who acquired them before the age of 21 is 32,000. The number of caregivers is approximately 8,500.

Unemployment figures for people with disabilities are high because of the lack of jobs, the special difficulties faced by people with disabilities, the demands of the labour market, the inaccessibility of buildings, workplaces and streets, and especially the lack of will of certain people to employ the disabled in suitable jobs and thus fulfil the requirements of the law.

A considerable number of occupational invalids have established private businesses. Local authorities are promoting the employment of persons with disabilities in jobs suited to their abilities, such as selling newspapers and tickets, etc.

Non-profit and social welfare organizations also protect the rights of people with disabilities and help to create employment opportunities for them.

## Vocational rehabilitation of persons with disabilities

In a separate chapter Act No. 7995 of 20 September 1995 on Employment Promotion provides for vocational rehabilitation for persons with disabilities in cases when they can benefit from the process and have reasonable prospects of finding and keeping a suitable job.

The State takes all the necessary and practical measures through the Employment Offices to create and develop specialized services for the professional training of persons with disabilities, who ask for help in changing and choosing a job.

This provision is not widely applied. To improve this situation, persons with disabilities are included among the groups of persons with socio-economic difficulties, who will receive priority treatment under the Strategy on Employment and Vocational Training adopted this year.

Concrete support for this group will consist of charging reduced fees in vocational training institutions, and giving them priority in the labour market programmes to be implemented by the Ministry of Labour and Social Affairs.

The Strategy includes supporting programmes for employers who employ persons from these special groups, including persons with disabilities, in the form of financial support for mandatory social insurance, salaries and/or other additional costs involved in their employment.

In 2004, with the support of the state budget, a new programme will offer employers who employ women over 35 years of age the reimbursement of mandatory social insurance and a percentage of the salary paid, up to the minimum salary. This category will include female heads of households, women with disabilities, trafficked women and women from the *Roma* community.

Persons with disabilities are the main beneficiaries of the Education and Vocational Training Act No. 8872 of 29 March 2002, which provides for the establishment of public and private centres, which offer courses of vocational training.



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## Employment of persons with disabilities

The sudden transformation of the system at the beginning of the 1990s was accompanied by extensive unemployment and changes in the structure and requirements of the labour market. One of the groups that suffered most from the change were persons with disabilities and occupational invalids who lost their jobs and whose possibility of finding a job suited to their abilities was minimal.

Because private employers are disinclined to employ persons with disabilities, it has proved necessary to enforce their obligation to employ them in suitable jobs.

Article 15 of Act No. 7995 sets a mandatory quota: "Every employer that employs more than 24 workers is obliged to employ a person with a disability for every 25 workers"; "An employer may employ one person with a major disability instead of five people with moderate disabilities."

Article 16 provides for employment promotion for persons with disabilities: "An employer may request a subsidy from the Employment Office to equip in an appropriate manner the workplace of a person with a disability. The salary of persons with disabilities is exempt from taxes up to a certain level, by decision of the Council of Ministers."

An employer who does not employ the set quota of persons with disabilities according to article 15 is obliged to pay into a special account of the National Fund of Employment an amount of money equal to the minimum salary every month, in respect of each person with a disability who should have been employed.

These articles are not widely applied. Often the number of employees does not reach 24; there is a lack of sanctions and practices for the right application of this and the article is also poorly enforced.

The Albanian Government and society in general have become aware that employment is the basic element of a person's life that ensures independence and integration for people with disabilities. Being paid gives validity to their contribution to society.

In the framework of the European and National Year for Persons with Disabilities and as a means of improving their status in society and providing them with equal opportunities in every field of life, the Albanian Government is developing a National Strategy for Persons with Disabilities.

An inter-ministerial working group with the participation of non-profit organizations working in the disability field, will ensure that the problems they face and their need to be independent and to have equal opportunities in education, employment, and other aspects of life are reflected in the Strategy.

An important element is the accessibility of buildings and the general environment to persons with disabilities. In cooperation with the Albanian Foundation for the Protection of the Rights of Persons with Disabilities, the Ministry of Territorial Development and Tourism has established urban standards and regulations to adapt and equip new and existing buildings for their access by persons with disabilities. The National Council on Territorial Development soon will adopt these standards and regulations.

These standards are expected to facilitate the movements of people with disabilities and provide them with more opportunity for employment. Their employment must be the responsibility of every State and a dignified act for each employer.

Recent years have seen the creation of sheltered businesses for the employment of people with disabilities. Non-profit organizations, with state support, have promoted initiatives aimed at producing wheelchairs and other equipment for people with disabilities. Through the facilities it has created for the purpose, the State provides financial support for the production of mechanical equipment.

There have been some successful initiatives aimed at the employment of people with disabilities and other groups with special needs. It is the responsibility of the State to ensure their continuation and the promotion of employment of people with disabilities.

*Anila Selmani, Ministry of Labour and Social Affairs, Tirana, Albania, 30 September 2003*

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## Croatia

### Laws and regulations: Current situation and planned changes

The occupational rehabilitation, employment and labour of persons with disabilities are of particular significance to every society because this group of persons is significant in terms of numbers and unequal in terms of available opportunities. These persons face additional obstacles in finding employment at a time of significant general unemployment, and the consequently increased labour supply on the labour market. In Croatia, according to the data of the Government Bureau of Statistics, such persons constitute 10 per cent of the total population between 15 and 65 years of age.

The Occupational Rehabilitation and Employment of Persons with Disabilities Act (December 2002) creates the prerequisites for increasing the employment rate of such persons and thereby, within the limits of current possibilities, fulfils the requirements of article 57, paragraph 2, of the Constitution of Croatia regarding particular government concern for persons with disabilities and their inclusion in the life of society. The inclusion of persons with disabilities in the life of society has until now been effected primarily through the financing of the activities of associations of persons with disabilities and the recognition of certain rights under the social welfare system, all of which remains necessary. In addition, an amendment to the Act will increase the likelihood that such persons will find employment. Employment, and thereby the ability to support themselves from income generated by their own work, will foster among these persons a sense of belonging to the community in which they work and live.

Government involvement in the occupational rehabilitation and employment of persons with disabilities was inadequate prior to the passage of the Act. During the period from 1990 to 2000, due to the instability of the political and economic situation, the issue of working with persons who have disabilities, and thus their employment, as well as providing various forms of support, had not been systematically resolved. After 1993 the majority of financial benefits were rescinded for sheltered workshops (companies for the employment of disabled persons). After 1996 a significant number of employed disabled workers lost their jobs upon becoming technologically or organizationally redundant, and were thus entitled to temporary compensation under the retirement/disability insurance system. As a consequence, of the former 39 sheltered workshops that employed approximately 3,500 persons with disabilities, only four have remained in operation with approximately 400 employed persons with disabilities, while the operations of the others ended in bankruptcy or liquidation. By the end of 1998, approximately 70,000 disabled workers who had been employed on the open labour market entered retirement.

The practically unregulated legal situation in the area of occupational rehabilitation and the employment of persons with disabilities made it necessary for the most important issues to be regulated in a comprehensive manner by a single Act. The greatest difficulty in the drafting and passage of the Act stemmed from the fact that a comprehensive government welfare system for the training and employment of persons with disabilities did not exist. Therefore, it was necessary to build one from scratch. In the preparation of the draft of the Act, the experiences of neighbouring countries were utilized, and coordination with the documents of the United Nations, International Labour Organization and the European Union was also taken into account.

The Act regulates the following:

- the concept and manner of defining and identifying disabled persons with diminished working ability;
- the content of the occupational rehabilitation of disabled persons;
- the employment of disabled persons on the open labour market;
- the employment of disabled persons under special conditions;
- the establishment and operation of institutions for occupational rehabilitation;
- the establishment and operation of sheltered workshops;
- the establishment and operation of working centres;

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- benefits for the employment of disabled persons;
  - the establishment and operation of the Fund for the Occupational Rehabilitation and Employment of Disabled Persons;
  - violations, supervision, transitional regulations and final regulations.

Because of the aforementioned closing of numerous sheltered workshops, as well as the time and funds required for establishing new ones, the initial application of the Act has generated great expectations for the hiring of disabled persons on the open labour market.

Thanks to the Act, it is anticipated:

- that the government administration, judicial authorities, other government bodies, local and regional self-management units, public services, and the legal entities primarily under the ownership of Croatia will be required to employ a number of persons with disabilities corresponding to the total number of employees;
- that, for jobs specified by regulations to be issued by the Minister of Labour and Social Welfare, all employers will be required, under equal conditions, to give preference to persons with 100 per cent disability in so far as their other working abilities remain intact;
- that employers (except those cited above) will have an ongoing right to receive financial incentives for the hiring of persons with disabilities;
- that, for the acceptance of programmes that will secure the rehabilitation, employment or retention of employment of persons with disabilities, it will be possible to count on financing or co-financing from the Fund for the Occupational Rehabilitation and Employment of Persons with Disabilities.

The ultimate goal of the Act, as well as the international documents on the protection of persons with disabilities, is to secure equal opportunities for disabled persons for schooling and other forms of work training, employment and retention of employment, in comparison to persons without disabilities. The opportunities for persons with disabilities are often not equal. Experience shows that the differences in opportunities cannot be eliminated by appeals to benevolence or to abandon groundless prejudices towards disabled persons, because the potential employers of such persons are faced with increasingly keen competition on the market. Therefore, in order to provide equal opportunities, it is necessary to invest additional funds, as well as to stipulate moderate and acceptable obligations for employees and other measures of so-called positive discrimination for the benefit of disabled persons.

The fundamental orientation of the Act is to take into account and not neglect the laws of the labour market, as shown by the provision of benefits as a means of promoting a higher employment rate among persons with disabilities, but only as an exception does it stipulate the moderate and gradual obligation of a segment of employers to employ such persons. All employers are obliged to give priority to 100 per cent invalids when hiring for certain jobs if they meet all the other job requirements. The achievement of the goals of the Act is not possible without the existence and regular activity of the Fund for the Occupational Rehabilitation and Employment of Persons with Disabilities. The establishment of this Fund is just one aspect of the State's systematic and ongoing concern for the higher employment rate of persons with disabilities; its long-term significance lies essentially in the conversion of part of the funds intended for their passive protection into funds for their active protection, all of which has multiple implications. The Fund for the Professional Rehabilitation and Employment of Disabled Persons is currently being established, and it should be functioning in early 2004.

In February 1998 the Government of Croatia called upon the Government Bureau for the Safeguarding of the Family, Motherhood and Youth, in cooperation with the ministries and associations engaged in promoting quality lives for persons with disabilities, to prepare the National Programme for the Improvement of the Quality of Life of Persons with Disabilities.

The preparation of the National Programme was based upon the standard regulations for the equalization of opportunities for persons with disabilities that were adopted by the General Assembly of the United Nations on 20 December 1993 in resolution 48/96.

For the purpose of the promotion of fundamental human rights and freedoms, respect for social justice and the dignity and worth of each person, the Government of Croatia on 14 October 1999 adopted the National Programme for the Improvement of the Quality of Life of Persons with Disabilities, which systematically confirms that which has been done on behalf of persons with

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disabilities and contains a proposal for further activities, with an indication of who would implement the measures. Furthermore, pursuant to the Programme of the Government of Croatia for the Period from 2000 to 2004, of 8 February 2002, the Government Bureau for the Safeguarding of the Family, Motherhood and Youth, in cooperation with the responsible bodies, the Ministry of Labour and Social Welfare, professionals and representative disabled persons, has prepared a Draft Proposal for a National Strategy for a Uniform Policy vis-à-vis Persons with Disabilities from 2002 to 2006, as an annex to the existing National Programme for Improving the Quality of Life of Persons with Disabilities. On 14 October 1999 the Croatian Parliament adopted the National Strategy for a Uniform Policy vis-à-vis Persons with Disabilities from 2002 to 2006. The preparation of the draft Proposal for a National Strategy for a Uniform Policy vis-à-vis Persons with Disabilities lasted for two years. The working group included representatives of the Croatian Parliament, government administration bodies, the Commission for Persons with Disabilities of Croatia, associations of persons with disabilities, associations that are concerned with the welfare of persons with disabilities and individuals with disabilities.

With the National Strategy for a Uniform Policy vis-à-vis Persons with Disabilities, the following basic problems have been defined regarding persons with disabilities in Croatian society:

- the unequal rights of persons with disabilities in terms of the degree, type and source of injury;
- architectural-urban barriers in all segments of society (education, health care, cultural institutions, etc.);
- insufficient participation by persons with disabilities in the process of decision-making at all levels;
- insufficient level of information among persons with disabilities, as well as within the general public, regarding the rights of persons with disabilities;
- frequent violation of the rights of persons with disabilities (despite legal regulations);
- excessive reliance by persons with disabilities on the social welfare system, due to the insufficient regulation of the system of employment of persons with disabilities;
- insufficiently organized system of education and professional rehabilitation for persons with disabilities.

The basic goals of the National Strategy are as follows:

- promoting and securing the rights of persons with disabilities;
- creating conditions for solving problems;
- coordinating activities and distributing information;
- active participation of persons with disabilities;
- sensitizing the society to the needs of persons with disabilities.

The National Strategy for a Uniform Policy vis-à-vis Persons with Disabilities from 2002 to 2006 has anticipated that within this four-year period the government administration bodies, in cooperation with the local self-management units, associations of persons with disabilities, associations that care for persons with disabilities and scientific-professional institutions will implement a total of 66 measures in the following areas: family and civil society; health, sports and recreation; education; occupational rehabilitation, employment and work; housing, mobility and accessibility; social assistance and welfare; retirement insurance, coordination and information dissemination.

It is necessary to emphasize the introduction of an ombudsman for persons with disabilities, the opening of the Office of the Government of Croatia for Persons with Disabilities, the recent coordination of all government administration bodies with local and regional self-management and management bodies, in order to achieve a uniform policy for persons with disabilities, and the definition and strengthening of the role of the civil sector.

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## Defining the concept of disability

The Occupational Rehabilitation and Employment of Persons with Disabilities Act lays down the right of persons with disabilities to receive occupational rehabilitation, employment and work, and defines the concept of a person with disabilities and diminished working ability, the employment and work of persons with disabilities on the open labour market and under special conditions, the establishment and operation of administrative and professional bodies, measures for stimulating the employment and work of persons with disabilities, the establishment of the Fund for the Occupational Rehabilitation and Employment of Persons with Disabilities, and the responsibility for the implementation of this Act.

According to this Act, a person with a disability is any person who has a physical, sensory or mental impairment which has as a consequence a diminished ability to meet personal needs in daily life, permanently or for a minimum of 12 months. Furthermore, a person with a diminished working ability is a person whose disability – in comparison to the abilities of persons without disability of equal or similar age, equal or similar education, under equal or similar working conditions, in equal or similar tasks – has as a consequence a diminished ability to be trained for work, become employed and work on the labour market under general conditions, permanently or for a minimum of 12 months.

Exceptionally, a person can also be considered to be a person with a diminished working ability whose work output is within the anticipated parameters but whose diminished actual and evaluated general abilities are such that being so considered is in the interest of maintaining his or her physical, sensory and mental abilities.

## Statistical indices – Unemployed persons with disabilities

According to the Occupational Rehabilitation and Employment of Persons with Disabilities Act, the introduction of a registry for the employment of persons with disabilities is anticipated. The contents of the registry and the manner in which it will be kept shall be stipulated by the Minister of Labour and Social Welfare. Employers are required to submit data on persons with established disabilities who are their employees to the authorized regional service of the Croatian Bureau of Employment.

Since, at the moment of writing this report, we do not have data on the number of persons with disabilities who are working because the procedure has not yet been organized, the rest of the report will present data on unemployed persons with disabilities and a comparison of the situation of persons with disabilities with that of other groups of unemployed persons.

The total number of unemployed persons with disabilities during the past decade has been increasing because of the high number of unemployed persons who were disabled during the homeland war and disabled workers; but the greatest increase has been among other persons with disabilities, which is the largest group within the entire category of unemployed persons with disabilities. From the beginning of the period, the number of unemployed persons with disabilities grew more rapidly than the total population of unemployed persons. For example, unemployment from 1988 to 2002 grew by 194 per cent, while the population of unemployed persons with disabilities grew by 296 per cent. The percentage of unemployed persons with disabilities in the total population also increased from 1.6 per cent in 1988 to 3.0 per cent in 1996, while in 2002 it fell to 2.2 per cent (mainly because those who were actually still able to work entered early retirement). Although the total percentage of unemployed persons with disabilities is not a large percentage of the unemployed population, it is marked by other characteristics that indicate the difficult situation of this group, particularly as regards level of education, work experience and duration of unemployment.

Among unemployed persons with disabilities, the largest number are those with physical disabilities, followed by persons with mental disabilities or combined disorders, while the other groups of disorders are present to a lesser extent. Regarding the sex and type of disorder, women are less present except in mental disorders and disorders in oral communication. In the total population of unemployed persons with disabilities, 61 per cent are men and 39 per cent are women.

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Viewed according to age, among the population of unemployed persons with disabilities young persons are less present than in the total population, which is most often the result of a prolonged period of education. For example, the percentage of unemployed persons with disabilities between 15 and 19 years of age constitutes 4.0 per cent of the total number of unemployed persons with disabilities; the percentage between 20 to 29 years of age is 27.0 per cent, between 30 to 39 years of age 27.4 per cent, from 40 to 49 years of age 24.3 per cent, from 50 to 59 years of age 14.9 per cent, and over 60 years of age 2.1 per cent.

It is a fact that success in employment depends to a great extent on the level of education, and this characteristic is often an indicator of the employability of a person with a disability. The level of education of unemployed persons with disabilities is generally poorer than the educational level of other unemployed persons. According to statistical indices, among the unemployed population the percentage of semiskilled workers and workers with lower educational backgrounds is approximately 15 per cent, while among the population of unemployed persons with disabilities the percentage of semiskilled workers and workers with a lower educational background is over 40 per cent.

The lower educational level among unemployed persons with disabilities reduces the opportunities for their employment on the open labour market, which in addition to their existing disabilities and the competition from persons without disabilities poses an additional obstacle.

The gravity of the position of unemployed persons with disabilities on the open labour market is very well shown by the duration of their unemployment. The most striking indices of unemployment among the categories where the duration of unemployment is three to six months, nine to 12 months and more than eight years.

Furthermore, 40 per cent of the persons with disabilities do not have even a single year of work experience, while for the rest of the population the figure is approximately 10 per cent. It is clear that lack of work experience combined with the low educational level mentioned above significantly influences the opportunities for hiring. This is particularly evident when one takes into account the length of working experience. The percentage of unemployed persons with disabilities who have long working experience (20 to 35 years) is greater than that of the total population of unemployed persons, because disabled workers and other disabled persons who become disabled as a result of injuries incurred at work tend gradually to lose their ability to work.

Taking into account the professions of unemployed persons with disabilities, it can be said that 619 profiles are represented. The largest number are workers without professions (with or without completed elementary school) who on average remain for 55 months on the register of unemployed persons, followed by persons with professions where there is often a surplus supply of workers and which therefore do not provide them with a significant opportunity for finding employment. These are mostly dominated by auxiliary professions, textiles and graphics.

From the indices cited, there is a clear need for adapting the educational system to the demands of today's labour market, as well as other structures as anticipated by the National Strategy for a Uniform Policy vis-à-vis Persons with Disabilities and the Occupational Rehabilitation and Employment of Persons with Disabilities Act.

## **Occupational rehabilitation and the employment of persons with disabilities**

Occupational rehabilitation is an integral part of general rehabilitation; its goal is the maximum possible social integration of persons with special needs. It is clear that, although this primarily refers to the occupational aspects of rehabilitation, the process of occupational rehabilitation does not have a one-dimensional goal, i.e. the training of persons with special needs. It is much more complex and covers the occupational and broad social integration of a person, thereby enabling a person with special needs to become capable of leading as successful and happy an independent personal and professional life as possible.

The Croatian Bureau of Retirement Insurance, according to the present legal framework, issues the authorization for occupational rehabilitation. Within the framework of this system, there are plans to increase the number of disabled workers who are accorded the right to rehabilitation through the formation of four regional occupational rehabilitation centres. The objective is to replace a passive approach (receiving various benefits) by an active approach whereby disabled

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persons are encouraged to undertake the responsibility or role of active workers by means of their occupational rehabilitation and employment.

Within the framework of the Croatian Bureau of Employment's Department of Occupational Counselling, a Section for the Occupational Rehabilitation and the Employment of Persons with Disabilities has recently started operating which, taking into account the new Act and National Strategy, is working on the development of a programme for the occupational rehabilitation and employment of unemployed persons with disabilities. The prerequisites for the successful implementation of the programme of occupational rehabilitation and employment of persons with disabilities are the acquisition of additional knowledge and skills and the creation of a support network at the local and republic level. Therefore, the education of professional associates is in progress.

Furthermore, the Croatian Bureau of Employment is implementing the Active Employment Policy Measures of the Government of Croatia, dated 1 March 2002. As part of these measures, Programmes E1 and E2, "A Chance for Us, Too," which involve the co-financing of the employment of persons with disabilities and other hindrances to their employability, are currently being implemented. The programmes are highly complex and require the completion of a series of preparatory steps that include the analysis of the tasks of a future job with a potential employer, psychological/medical preparation of the candidate for the job, preparation of a programme of training/adaptation, introduction to work and monitoring by a mentor, and evaluation in terms of the success of the candidate at the job, as well as his or her satisfaction with the job and working surroundings, which are also prerequisites for successful inclusion in the world of work and in society as a whole.

Since the beginning of the implementation of Programmes E1 and E2 (1 March 2002), a total of 118 had been employed as of 31 August 2003. Since the programmes comprise a large number of social components, the results should be viewed exclusively from the qualitative aspect, not by comparing them to the results achieved in the implementation of other programmes under the Active Employment Policy Measure. Furthermore, since the application of the new Occupational Rehabilitation and Employment of Persons with Disabilities Act and the introduction of new forms of work for those categories of unemployed persons through an inter-institutional approach, the employment of persons with disabilities should in future achieve a higher level in terms of the quality, but also of the quantity, of employment within this group.

Today in Croatia, as previously stated, there are only four institutions for the occupational rehabilitation and employment of persons with disabilities. However, it is anticipated, based upon the new Act, that the local self-management units will work on the establishment and co-financing of institutions, work centres and sheltered workshops for the most severely disabled.

The objective of the new approach is to determine the suitability for occupational training and employment of persons with a diminished working ability, in order to reduce or eliminate their dependency on their social welfare rights, and to enable them to support themselves with income generated by their own work.

The improvement of the situation of persons with disabilities on the labour market depends on a whole series of factors that contribute to the ultimate goal of achieving the employment of such persons. In order to realize this goal, it is necessary to link their education and health care with civil society and with the institutions that operate on the labour market.

The employment of persons with disabilities depends not only on employers but also on their own family and the disabled individuals themselves; it also depends on their readiness to take advantage of opportunities for schooling and work training and thereby to accept an equal role or active participation in resolving the question of their own existence, and on their perseverance in doing so.

The role of the State, which has increased with the new Act, is to make it possible for persons with disabilities to receive schooling and other forms of occupational training, to stimulate their employment financially and, in an acceptable measure, to oblige employers to hire them. Also of importance is the contribution of professionals: educators, special needs teachers, psychologists, physicians, vocational guidance experts, social workers and others. However, most important of all for the improvement of the existing situation is to coordinate the activities of all the relevant factors.

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## Czech Republic

### Legislative framework

Legal acts:

- Employment Act No. 1/1991 Coll;
- Employment Act and the activities of the Czech Republic's authorities in the area of employment No. 9/1991 Coll;
- Decree No. 115/1992 Coll, providing vocational rehabilitation for people with disabilities;
- National Employment Plan of the Czech Republic;
- National Action Plan for Employment of the Czech Republic;
- National Plan on Equalization of Opportunities for Persons with Disabilities.

Legislative trends in last decade and changes planned:

- Act No. 167/1999 Coll;
- Act No. 474/2001 Coll;
- Decree No. 242/2002 Coll.

A new Act concerning the employment of people with disabilities is currently being drafted. This Act will become effective on 1st May 2004. The provisions concerning people with disabilities fall into the following categories:

- emphasis on the importance of vocational rehabilitation;
- preparation for employment with the help of a personal assistant;
- fulfilment of the mandatory quota by taking products from employers whose labour force includes more than 50 per cent of disabled employees, but no purchase of goods with the aim of further sale.

### Definition of disability

The labour legislation of the Czech Republic distinguishes between two categories:

- persons with a reduced ability to work, i.e. those whose chance of employment, or possibility of training in preparation for employment, is substantially limited on a long-term basis due to their unfavourable health condition;
- persons with a reduced ability to work because of severe health problems, i.e. those whose possibilities of finding employment, including training in preparation for employment, are extremely limited, and who can perform work only in a limited number of jobs, sometimes only under special working conditions.

A person with a reduced ability to work:

- is a recipient of a partial disability pension;
- is recognized as partially disabled, even though he or she is not entitled to a partial disability pension or does not receive the disability pension to which he or she would be entitled, due to the fact that he or she has income from a gainful activity.

A person with a reduced ability to work because of severe health problems:

- is only able to work systematically under wholly special conditions;
- can only be trained for work (and a future occupation) under wholly special conditions.



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## Statistics

Unemployment among the disabled is a serious problem, as the figure rose from 20,016 at the end of 1993 to 59,025 at the end of the year 2000, following a revision of the definition of full and partial invalidity. At the end of 2001 the number was 61,518. One problem is the substantial shortfall of vacancies suitable for this group (only 2,108 vacancies at the end of 2001, so there are 29.2 disabled jobseekers for each vacancy).

**Table 1. Registered jobseekers and vacancies from 1993 to 2002**  
(thousands)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Jobseekers	185.2	166.5	153.0	186.3	268.9	386.9	487.6	457.4	461.9	514.4
Of which:										
disabled	20.0	22.0	22.7	31.5	40.5	49.0	57.6	59.0	61.5	66.9
severely disabled*	0.7	1.6	1.4	1.2	1.2	0.8	0.8	0.8	0.9	1.0
Vacancies	53.9	75.9	88.0	84.0	62.3	37.6	35.1	52.1	52.1	40.7
Vacancies for disabled (average)	-	-	-	1.5	1.3	1.2	1.3	2.8	2.1	1.7
Number of jobseekers per vacancy (average)	3.4	2.2	1.7	2.2	4.3	3.0	13.9	8.8	8.9	12.7
Number of jobseekers per vacancy suitable for disabled (average)	-	-	-	21	31.2	40.8	44.3	21.0	29.2	38.3

**Table 2. Number of jobs created for jobseekers with disabilities from 1995 to 2002**

	1995	1996	1997	1998	1999	2000	2001	2002
Created jobs	824	622	533	920	1 059	1 434	1 032	976
Placed jobseekers	724	562	493	853	951	1 368	1 043	1 063

## Vocational rehabilitation of people with disabilities

### ***Employment Act No. 1/1991 Coll***

Disabled citizens shall be provided with rehabilitation as part of continuous care aimed at making it possible for them to perform their existing job or other suitable job; this shall also involve consultancy services relating to the selection of an occupation or some other work, job training, job placement and the creation of suitable conditions for the performance of their work.

### ***Decree No. 115/1992 Coll, providing vocational rehabilitation for people with disabilities***

Persons with a reduced ability to work and persons with a reduced ability to work because of severe health problems are entitled to claim employment which is in accordance with their health condition and abilities. Vocational rehabilitation is provided by labour offices, and mainly takes the form of consultancy on how to get involved in vocational rehabilitation. The labour office helps people to choose suitable employment. Preparation for employment can be funded by the labour office on the basis of a contract; it takes place at individually adjusted workplaces, sheltered workshops and workplaces, or other establishments suitable for such activity.

In the Czech Republic a sheltered workshop is a place where more than 60 per cent of employees are people with a reduced ability to work. A sheltered workplace can be the person's own home environment. The labour office provides employers with financial assistance to establish and maintain a sheltered workplace. This financial assistance can also be given to a self-employed

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person. The conditions concerning financial support are stated in the contract. The workplace must be maintained for at least two years.

## **Employment of people with disabilities**

In the Czech Republic the Employment Act stipulates that it is a legal duty to employ an obligatory share of people with disabilities. Each employer is obliged to employ a mandatory quota of disabled people as part of his labour force. The mandatory quota for an employer employing over 25 employees is 4 per cent.

An employer fulfils his duty to employ the mandatory quota of disabled people by employing the mandatory quota of disabled people, or by taking products from employers whose labour force includes more than 50 per cent of disabled employees, or by placing production programmes with such employers, or by taking products from protected workshops operated by non-profit organizations or by a public service company, or by placing production programmes with such entities, or by paying a levy into the state budget. The amount of the annual levy is based on the number of disabled people by which the employer fails to meet the mandatory quota and is calculated in respect of each such person not employed. An employer may fulfil his mandatory quota duty by a combination of the abovementioned methods.

For the purposes of employing disabled people in accordance with the mandatory quota, each person with a reduced ability to work because of severe health problems is credited three times to the mandatory quota.

### ***Financial assistance for employers whose labour force includes more than 50 per cent of disabled employees***

The Employment Act stipulates the amount of financial assistance to which employers are entitled who adjust their production programme and working conditions in order to employ disabled people.

The purpose of the grant is to compensate for the increased cost of employing disabled people as a result of the necessary organizational, technical and personal measures, the adaptation of workplaces, the organization of production and business activities and the fact that such employees have a higher sickness rate and reduced labour potential.

### ***Grants and loans***

Employers whose labour force includes more than 50 per cent of employees with a reduced ability to work can apply for grants for investing in improvements in their company (purchase of machinery, vehicles and building or reconstruction of workplaces). They can also apply for non-interest-bearing loans for the purchase of production material. Grants and loans are provided by the Ministry of Labour and Social Affairs, but the application is submitted to the labour office by the employer. In processing each application, the labour office takes the region's situation on the labour market into consideration. These grants and loans ensure increasing opportunities for people with disabilities.

*Prepared by Jana Majerova, Ministry of Labour and Social Affairs of the Czech Republic, 20 September 2003.*

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## Estonia

### Legislative framework and legal trends

Estonia has declared its commitment to promoting the equal opportunities and social integration of disabled people. Considerable gains have been achieved in the promotion of the rights of disabled people over recent years. Disabled people are, however, socially disadvantaged in a number of areas of life, including employment. It is widely recognized that opportunity to work is crucial for disabled people, as it enables them to achieve economic independence. Working is also much more than just about earning money – it means, most importantly, inclusion in society through social networks and participation. The dramatic fall in the employment rate of disabled people in Estonia inevitably increases the risk of poverty and social exclusion.

The Estonian Constitution provides that disabled people shall be under the special protection of the State and local authorities. The State and local governments are thus required to implement additional measures to ensure that people with disabilities can enjoy the same rights as all others.

Estonia's National Disability Policy, approved by the government in 1995, is based on the United Nations Standard Rules on the equalization of opportunities for people with disabilities (United Nations' resolution 48/96, 20 December 1993). It refers to the right of disabled people to beneficial and productive employment.

Legislation must not discriminate against disabled people nor restrict their employment. The State is obliged to provide active employment measures and incentives to employers to support the integration of disabled people into the labour market. As stated in the policy document, the Government supports public awareness campaigns aimed at overcoming negative attitudes and prejudice towards disabled employees. Estonia's national disability policy marked a policy shift from granting benefits to disabled people and isolating them from society to integration and involvement. However, many of the principles of equal opportunities, especially in the field of employment, have yet to be translated into practice.

### *Labour market provisions*

The Social Protection of the Unemployed Act enables disabled people with partial loss of capacity to work to be registered as unemployed and guarantees them access to mainstream labour market provisions.

The Labour Market Services Act provides for active labour market measures such as vocational counselling, labour market training, employment subsidies and community placement. Employers who employ less competitive persons such as disabled people, but also the young and long-term unemployed, mothers with young children, people of pre-retirement age and ex-prisoners, are granted a wage subsidy. The subsidy is paid for the 12 months of employment and employers are not obliged to maintain employment when the subsidy period ends. The subsidy is equivalent to a minimum wage for the first six months.

The Social Welfare Act stipulates that responsibility for accommodating workplaces and setting up adaptation centres lies with municipalities. However, the legislation is here permissive rather than mandatory, and such provisions are subject to each municipality's priorities, availability of resources and expertise.

The Occupational Health and Safety Act states that the work and workplace of a disabled worker shall be adapted to his or her physical and mental abilities. According to the Act the Government shall establish "preferential working conditions" for disabled employees, but this has not yet been achieved.

The Social Tax Act provides some tax relief for employers hiring people with disabilities. The social tax obligation of the employer is reduced by 231 EEK per month because the State pays the social tax (33 per cent) on the first 700 EEK of the monthly wage. As with any full-time worker, the employer is required to pay at least the minimum wage (currently 2,150 EEK), so the social tax relief and the state contribution are rather modest and do not have a substantial effect on the employment rate of disabled persons.

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## Definition of disability

Disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person. For the purposes of the law, there are three degrees of severity of disabilities:

- (1) profound disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person as a result of which the person needs constant personal assistance, guidance or supervision 24 hours a day;
- (2) severe disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person as a result of which the person needs personal assistance, guidance or supervision in every 24-hour period;
- (3) moderate disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person as a result of which the person needs regular personal assistance or guidance outside his or her residence at least once a week.

The Social Benefits for Disabled Persons Act lists seven factors to be taken into account in determining the severity of disability. They are:

- the state of health;
- the operational capacity;
- the need for personal assistance, guidance or supervision which exceeds the need appropriate to the age of the person;
- the person's need for personal assistance and guidance that exists regardless of the use of technical aids;
- the living environment;
- the additional expenses caused by the disability;
- where a rehabilitation plan exists, the activities prescribed therein.

Personal assistance or guidance means the provision of assistance to persons who do not cope independently with eating, hygiene, clothing, moving about or communicating. Supervision means the ensurance of safety regarding persons who, by act or omission, may constitute a danger to the life, health or property of themselves or other persons.

## Statistics

Statistics on disabled people of working age are available from two main sources: the information compiled by the Social Insurance Board about recipients of pensions for incapacity for work (until 2000 known as disability pensions) and of social benefits for disabled people; and the 2002 Labour Force Survey.

### ***Pensions for incapacity for work***

Until 2000 eligibility for what were then described as disability pensions was not subject to any age limit. The number of recipients of such pensions, which had been on a downward trend during the latter part of the Soviet period, increased from fewer than 39,000 in January 1991 to nearly 67,000 in January 2000. Changes implemented in that year included the transfer of disability pensioners aged over 63 to old-age pensions (and of disabled children to the social benefits scheme for disabled persons), a different approach to assessing medically individuals' disability/incapacity, and a change of title to "pensions for incapacity for work". As a result of these changes the number of recipients fell to about 43,400 in January 2001. Since then the upward trend has continued to rather more than 51,300 in January 2003.

### ***Social benefits for disabled people***

This Act, which was implemented in 2001, has two main aims: to compensate individuals for the extra cost of being disabled, and to facilitate rehabilitation. We would have wished to include in this report statistics on the number of people of working age who are in receipt of monthly

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allowances for disabled persons and the number who are also receiving pensions for incapacity for work. Unfortunately that information does not appear to be available.

## **Labour Force Survey**

In 2002 the Labour Force Survey included, for the first time, questions on long-standing health problems or disabilities and about whether these affect the kind of work respondents are able to do, the amount of work (i.e. working hours, efficiency) and whether the disability makes it, or could make it, difficult for the respondent to travel between home and work. Individuals who said they were affected in one or more of these ways, either considerably or to some extent, are classified in this report as disabled according to the Survey definition. The approach is broadly similar to that used in health and disability surveys in OECD countries.

According to the 2002 Labour Force Survey 201,300 people aged 15-64 have long-standing health problems or disabilities, about 22 per cent of all those in that age group. Their health problem or disability affects about half of them in one or more ways. Members of this smaller group are classified as disabled in this report. Among those so classified about 50 per cent said the type or amount of work they could do and/or their ability to travel between home and work was considerably affected ("severely disabled people"). This proportion is somewhat higher than the average for about a third of OECD countries, though the Swedish proportion is similar. Differences in the precise wording of survey questions could help to explain this. In addition the health situation in Estonia is not favourable compared to more prosperous countries, and there are considerable health inequalities between socio-economic groups.

Evidence from OECD countries suggests it would be wrong to assume that all recipients of, for example, pensions for incapacity for work would have replied to the Survey in ways that would result in their being classified as disabled according to the Survey definition. About a third of recipients of disability benefits do not describe themselves as disabled when replying to surveys. (In Estonia some recipients of pensions for incapacity for work may well be included among the roughly 50 per cent of people with long-standing disabilities or health problems who say these do not have employment effects. Some 43 per cent of the 24,400 such people who were economically inactive in 2002 described their main source of income as a pension. The comparable percentage for inactive people who are classified as disabled according to the definition in section 2 above was 75 per cent.)

## **Vocational rehabilitation of persons with disabilities**

Vocational rehabilitation of persons with disabilities is regulated by the Decree of the Government of the Republic on the Conditions and Procedure of Education of Disabled Persons in Vocational Training Establishments (25 November 2003, No. 265) Vocational training was given to 700 students. Students with special needs are as a rule integrated into small groups of six to eight general students. Students with special needs follow an individual training plan according to rehabilitation, education and vocational training goals; this training plan also sets out measures for general social skills and subsistence.

## Students with special needs in vocational schools

Institution	Groups	Female	Male	1 October 2001 total	2002 Admission
Estonian Mining Education Centre	0.0	0	1	1	–
Private school Non Grata	0.0	0	1	1	–
Jõhvi Vocational School	2.0	15	0	15	–
Kehtna Economy and Technology School	1.0	3	9	12	15
Kose Service School	2.0	12	9	21	12
Kuressaare Job School	1.0	2	7	9	8
Narva Vocational School	4.0	12	72	84	75
Paide Vocational School	2.0	16	10	26	20
Põltsamaa Home and Agriculture School	3.0	8	19	27	30
Pärnu Vocational Training Centre	2.0	13	3	16	16
Sillamäe Vocational School	–	–	–	–	30
Taebla Vocational School	5.0	23	24	47	30
Tallinn Building School	1.0	0	46	46	–
Tallinn Technical School of Light Industry	0.0	1	0	1	–
Tallinn Majaka Service School	–	–	–	–	12
Tallinn Polytechnic School	0.0	0	1	1	–
Tallinn Industry Educational Centre	0.0	3	0	3	–
Tartu Building and Manufacturing School	2.0	22	0	22	–
Vana-Antsla Vocational School	2.0	8	11	19	20
Vana-Vigala Technical and Service School	3.0	14	52	66	39
Viljandi United Vocational School	0.0	0	1	1	–
Väike-Maarja Vocational Centre	3.0	17	6	23	29
<b>Total</b>		<b>206</b>	<b>323</b>	<b>529</b>	<b>336</b>

In addition to the above schools, the Astangu Vocational Training Centre, established in 1996, is a special vocational training school for disabled people from all over Estonia.

The Astangu Vocational Training Centre, run by the Estonian Ministry of Social Affairs, is a special institution for people with special needs in terms of social, pedagogical and vocational rehabilitation; it also offers physiotherapy services.

There are 126 students at the Astangu Vocational Training Centre, whose aim is to help disabled people to manage as well as possible in the social environment and to integrate in the open labour market. The Centre also offers vocational and social guidance or counselling both for students and for their families.

The Foundation for Mental Health Care in Tartu, Pelguranna Tugikodu in Tallinn and MTÜ Viljandi Singel in Viljandi provide an active rehabilitation service for people with psychiatric problems.

Another rehabilitation centre in Tartu, run by the Chamber for Disabled People, has organized counselling sessions for disabled people.

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## Employment of persons with disabilities

Overall, the employment rate in Estonia declined rapidly at the beginning of the 1990s as a consequence of economic restructuring, with major job losses concentrated in industry and agriculture. The economically active population fell by 87,500 persons in 1992-98, reflecting a decline in both labour market participation and in demographic trends (decline in birth-rate and high level of out-migration). The sharp slowdown in the economy after mid-1998 resulted in a further decline in the numbers at work – to 615,000 in the second quarter of 1999 and 604,000 in the second quarter of 2000. Since the second half of 2000 employment has showed a marginal increase; however, in all, employment has fallen by some 230,000 persons, or more than one quarter, from its 1989 level.

The employment of disabled people has fallen even more dramatically. Towards the end of the Soviet period in 1987 there were 36,807 recipients of invalidity pensions, of whom 11,221 (30.4 per cent) were employed. In 1995 there were 48,654 invalidity pensioners of whom 5,718 (11.8 per cent) were employed. Briefly, while the total number of invalidity pensioners increased, the number of employed invalidity pensioners fell significantly. In 2001, 45,000 disabled persons of working age received pensions of incapacity for work (reformed invalidity pension). Only 12 per cent of these were in employment. According to Labour Force Survey data, about 22 per cent of working age disabled people are employed compared to 61 per cent of the non-disabled population of working age. Disabled people are more likely to become unemployed than non-disabled, and remain so for a longer time. A 2001 survey of the quality of life of people with disabilities and chronic illnesses in Estonia showed that the majority of disabled people would be interested in taking up paid employment.

## Appendix

May 2003 saw the start of a twinning project entitled “Enhancing employment opportunities for people with disabilities” between Estonia and the United Kingdom, to provide a full range of support and advice to the Estonian Government in two key areas:

- institutional network of rehabilitation teams, social insurance departments, labour market services and vocational training centres built up and strengthened in order to provide and coordinate rehabilitation services, labour market measures and workplace adaptation for disabled people;
- increased awareness of employers about recruitment of disabled people and disability management at work and information for disabled people about existing rehabilitation, labour market and training provisions.

The project has four main components:

- review of existing legislation and the institutional network of rehabilitation teams;
- rehabilitation teamwork;
- raising public awareness;
- workplace adaptation scheme.

The expected results of the project are:

- (1) Analysis of legislation and of the existing institutional network of rehabilitation teams (20), regional social insurance departments (4), public employment offices (15) and regional vocational training centres (4) with regard to the provision, funding and coordination of rehabilitation and other employment support measures for disabled people; review and evaluation of current active labour market measures.
- (2) Submission to the Ministry of Social Affairs (MoSA) of recommendations on necessary amendments to existing legislation and/or policies; strengthening implementation structures and services; improving cooperation between relevant actors and coordination of rehabilitation and labour market provisions; widening the range and scope of rehabilitation, labour market and other employment support services, if necessary; allocating funding responsibilities (national government, municipalities, employers, disabled people) and improving funding schemes.

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- (3) Preparation of model training programmes on institutional cooperation and networking to promote a multidisciplinary approach to the rehabilitation and employment needs of disabled people; training for selected general practitioners and occupational health practitioners, rehabilitation teams, regional social insurance departments and their commissions responsible for determining the degree of disability, labour market consultants and representatives from the regional vocational training centres.
  - (4) Increased awareness among both disabled people and their (potential) employers about available resources for promoting the employment of disabled people; relevant information provided about existing rehabilitation and other measures to support the employment of disabled people (project and MoSA web site, leaflets, good practice guides for employers, media coverage); project activities and results made public (media coverage, closing seminar).
  - (5) Scheme for workplace adaptation: experts on workplace adaptation trained; funding scheme proposed; financial incentives and consultation services for employers designed.



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## Latvia

In 1995 an overall reform began in Latvia's social security system, with the aim of granting social security to people who are not able to provide for their maintenance themselves and who do not receive sufficient external support.

The basic law regulating the social security of disabled persons is the Medical and Social Protection of Disabled Persons Act adopted in 1992. The law defines the rights of disabled persons as well as the obligations of the State and local authorities towards them. Its main provisions are designed to guarantee the integration of disabled persons into society.

In order to create an environment for the successful integration of disabled persons into society a multidisciplinary approach is required, involving the cooperation of institutions with various fields of competence.

In 1998 the Cabinet of Ministers of Latvia adopted the concept of "Equal Opportunities for All" and of facilitating the involvement of various institutions in the implementation of measures aimed at the integration of the disabled into society.

The purpose of the concept is to set guidelines with a view to creating equal opportunities for all the members of society to perform the role which is normal for every individual depending on his or her age, gender, social and cultural factors.

The concept not only sets out the direction of a disability policy but also comprises an implementation plan which defines the concrete steps and measures to be taken up to 2010 in order to eliminate all barriers to a society in which equal opportunities are enjoyed by all, including people with disabilities.

High employment for all groups of society and equal job opportunities for all are priority concerns on Latvia's agenda and in the social policy of the European Union.

Consequently, great attention is devoted to the needs of disabled persons and to the implementation of a policy fostering their involvement in the labour market.

There are two ways in which equal opportunities for employment and the competitiveness of disabled persons on the labour market are promoted: education, and vocational rehabilitation.

Education for children with disabilities in Latvia is provided in special educational institutions (there are 63 special educational institutions offering education for children suffering from 11 different kinds of development disorders and diseases), in special classes in general education institutions, or through completely integrated studies in the general education system.

Though opportunities for integration are provided for in the legislation, the special educational institutions are not proving very promising. The principal problems are the financing of educational institutions and the training of teachers to work with children with special needs.

Experience has also been gained in providing professional training classes in special boarding schools, where students can acquire very basic professional skills; however, this is usually not enough to ensure their employability on the labour market.

On the positive side, activities have begun in improving the accessibility of school buildings for children with restricted mobility.

Vocational rehabilitation services for disabled persons are provided outside the education system, as a part of the social services that are a crucial element in providing opportunities for the disabled to integrate into the labour market, and thus into society.

Two institutions provide vocational rehabilitation services in Latvia – the "Alsviki" Vocational Training and Rehabilitation Centre and the RRC College.

The "Alsviki" Centre provides vocational rehabilitation for disabled persons with primary education and teaches them skills in such professions as dressmaker, shoemaker, craftsman and servant. The duration of the studies is two to three years; 92 persons attended the Centre in 2003.

The RRC College provides vocational rehabilitation for disabled persons with secondary education and offers a wide variety of programmes for different levels of skills. Services are provided both for young people and for adults, who can choose daytime, evening or distance

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education classes. The College makes an evaluation of each person's ability to acquire vocational skills in economics, bookkeeping and industrial marketing or for employment as an electronic fitter, social insurance specialist, commercial specialist for offices, cook, etc. The College is a modern, technically well-equipped vocational training institution suitable for disabled persons and providing good results in terms of rehabilitation.

Since the provision of vocational rehabilitation services is based on an assessment of individual needs and rehabilitation plans and involves cooperation with potential employers and other institutions, up to 80-90 per cent of the students find employment upon completion of the rehabilitation process. There were 420 students in the RRC College in 2003.

The legislation of Latvia also provides for the employment of persons with mental and visual impairment in specialized workshop, under the responsibility of each municipality. However, this kind of service is still largely undeveloped in Latvia, and government policy is directed towards providing more integrated vocational training and employment opportunities.

In accordance with the Social Services and Social Assistance Act of 27 May 2003, the Cabinet of Ministers adopted a set of regulations on procedures for providing vocational rehabilitation services and on the requirements for providers of such services. Under this Act, persons who are not able to work in their previous professions any longer because of a severe or moderate disability are entitled to vocational rehabilitation. A recommendation issued by the State Medical Expert Commission responsible for assessing the state of health and ability of a person to engage in a new occupation is also required. A person may undergo vocational rehabilitation repeatedly but not more than once every five years.

After attending the general education programme, disabled persons in Categories I and II and visually impaired persons in Category III are entitled to vocational rehabilitation up to 1 January 2007.

Persons, including disabled persons, who are unemployed and seeking work who do not receive state support, who are not involved in the active employment programmes provided for under the Unemployed and Jobseekers Support Act (vocational training, further training, retraining, paid temporary community jobs, activities for defined group of persons) and who cannot return to the labour market may apply to the local office of the International Labour Organization for unemployed status as defined by law, in order to participate in the aforementioned active employment programmes that are organized in order to reduce the level of unemployment. Involving the unemployed in these programmes motivates them to seek a job actively and to adapt to the demands of the labour market; it helps to develop a capable and trained labour force and to increase the competitiveness of the unemployed and hence their involvement in the labour market.

In order to facilitate the employment of disabled persons and to ensure their involvement in the labour market on equal terms, the ILO, in accordance with Regulation No. 309 of the Cabinet of Ministers on the organization and financing of active employment policies and other legal enactments, is organizing subsidized employment programmes for unemployed disabled persons.

Between 11 March and 5 April 2003, the ILO conducted a survey of unemployed disabled persons regarding their participation in the subsidized employment programmes. According to the findings of the survey, 758 unemployed disabled persons expressed the wish to participate in the programmes. According to ILO data, 458 unemployed disabled persons were involved in subsidized employment programmes as at 18 September 2003.

In the framework of these subsidized employment programmes, disabled persons are engaged in various occupations, including highly skilled professions; for example, 18 disabled persons work as accountants, 20 as secretaries, 21 as social workers, 12 as computer operators, 19 as locksmiths, 16 as dressmakers, eight as production operators of carton manufacture, five as plumbers, four as builders, 14 as gardeners, four as cattle breeders, etc.

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## Lithuania

In Lithuania socially disabled groups, including persons with disabilities are faced with major obstacles in participating in the labour market. This situation has in many respects become more acute since the restoration of independence and since the restructuring of many of the existing systems. In order to eliminate many of these obstacles and to facilitate the reintegration of persons with disability into the labour market, various labour-market-oriented training courses and rehabilitation programmes have been established and legislation adopted with respect to the employment of persons with disabilities.

### Legislative framework and legal trends

The following laws and regulations govern the employment of persons with disabilities and their vocational rehabilitation:

- Regulations-Recommendations for the Provision of Equal Opportunities for the Disabled, adopted by the General Assembly of the United Nations.
- Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), ratified in 1994.
- Social Integration of the Disabled Act, 1991.
- Unemployed Persons Support Act, 1990.
- Labour Code, 2002.
- Vocational Education and Training Act, 1997.
- Decree regarding the National Programme of Medical, Social and Vocational Rehabilitation 1992-2002, 1992.
- Decree regarding the National Programme for the Social Integration of People with Disabilities 2003-12, 2002.
- Decree regarding the Validation of the Programme of Lithuania for the Promotion of Employment 2001-04, 2001.
- Decree regarding the Validation of the Concept of the Reform of the Establishment of Disability Status and Social Security Measures for the Disabled, 2001.

One of the main documents implementing reforms in the area of the social integration of the disabled is a new draft amendment of the Social Integration of the Disabled Act. It was necessary to modify the existing law for many reasons: a number of aspects of the Act do not correspond to the demands and trends of modern-day life; the concept of disability is out of date; the principles and criteria defining disability must be changed; some legal provisions are discriminatory and do not correspond to the modern concept of social integration; occupational rehabilitation, which is one of the main links in social integration is not regulated in the Act, etc.

The objective of the amended Act is to secure equal rights and opportunities for the disabled in society as a fundamental principle of the social integration of the disabled, corresponding to the Constitution of Lithuania and international legal standards.

The Act lays down the main definitions, principles and trends of social integration, sets out measures for the implementation of social integration, regulates the status, working capacity and special needs of the disabled and defines their main rights and obligations.

The Act establishes a new model for determining disability status. It is suggested that for children under 18 years of age the disability status should be established. For persons from 18 years of age to retirement age the degree of the working capacity should be established. For persons of retirement age the working capacity should not be established, but they should be compensated for the special needs deriving from the disability and old age.

The Act regulates the provision of vocational rehabilitation services and envisages payment of a rehabilitation allowance.

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An important document improving the employment of disabled persons is a draft amendment to the Social Employment Enterprises Act. The objective of the law is to regulate the legal status, establishment, activity and financial support of enterprises that employ disabled and other persons of limited working capacity.

## Definition of disability

The Social Integration of the Disabled Act defines disability as the condition of a person established by competent institutions where the person's ability to take care of his/her social life, to enjoy his/her rights and to do his/her duties is limited completely or partially on account of inborn or acquired physical or mental impairments. According to the degree of severity disability is divided into three groups. Group I covers those with the highest degree of disability, Groups II and III those with less severe disabilities. The classification also determines the size of the disability pension that the person receives.

Disability for children under 16 years is assessed by consultative commissions of doctors of child health-care institutions. The regulations of the commissions are ratified by the Ministry of Health. The disability and degree of work disablement of persons over 16 years of age are assessed by the National Commission of Medical and Social Expertise Commission, whose regulations are ratified by the Government.

## Statistics

There were 221,577 disabled people receiving disability pensions in Lithuania in 2002. There are around 127,000 disabled people of working age. The share of persons with disabilities in the active population is approximately 6.4 per cent. There are around 14,000 disabled children under 16 years of age.

More and more people are nowadays recognized as being disabled. The number of working-age people diagnosed as being disabled for the first time is growing particularly fast; for example, 12,237 unemployed persons of working age were recognized as being disabled for the first time in 2002. The growth of the number of disabled is due not only to the impairment of people's state of health, but also to economic and social causes, such as unemployment and a poorly developed system of occupational rehabilitation, as well as a well developed system of financial support and social privileges which encourages people to seek recognition of this disability instead of working.

Persons with disabilities were severely hit by the transition in terms of their employment opportunities. The number of working people with disabilities is constantly declining. In the past 12 years the number of working disabled has decreased steadily. Today approximately 28,000 disabled people (around 20 per cent of disabled people of working age) are working. More than half of the disabled of working age are unemployed. Disabled persons make up 2.4 per cent of the total number of all unemployed people registered at the labour exchange offices.

The integration of the disabled into the labour market is restricted both by objective and by subjective obstacles.

The objective obstacles to their integration into the labour market are:

- poor adaptation of the public and working environment;
- lack of vocational preparation;
- loss or absence of connections with the labour market;
- absence of a vocational rehabilitation system;
- inadequate incitement of employers to hire persons with disabilities;
- the age of the disabled and the severity of the disability.

Disabled persons under 35 years of age have the maximum employment possibilities. Persons with Group III disability (light disability) make up the biggest share of working persons with disabilities who are involved in employment programmes. Persons with more serious disabilities are not in a position to compete in the labour market on equal terms.

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The subjective obstacles to integration into the labour market are:

- lack of motivation to work;
- attractiveness of unemployment benefits;
- lack of individual initiative and unfair evaluation of personal situation in the labour market.

On the other hand, the number of persons with disabilities registering at the Labour Exchange Offices has more than doubled during past six years. The attitude of people with disabilities has slowly started to change, and they are becoming more active and participatory. This can possibly be attributed to several factors, including a gradual change in community attitudes towards persons with disabilities and the first signs of a more integrated society. Furthermore, people with disabilities are more aware of their rights and more active in claiming these rights. There has been a shift from the rehabilitation of persons with disabilities from a purely medical perspective, to a more social perspective, which sees the person with disability as a part of society at all levels, including education, employment, leisure and so on.

In the year 2002 5,880 persons with disabilities registered with their local labour offices, 1,500 more than in 2001; 3,623 persons with disabilities participated in labour market measures in 2002; 1,924 (32.7 per cent) of those who registered at local labour exchange offices were employed. The greatest progress in the integration of the disabled into the labour market was made by a programme for the creation of new workplaces; 394 new workplaces for the disabled were created in 2002.

## **Vocational rehabilitation of persons with disabilities**

The term “rehabilitation” as defined in 1992 by the Government of Lithuania is a multi-faceted and coordinated system, which assists in restoring the functionality, independence and integration into society of persons with disabilities, both medically and socially. However, it must be noted that the emphasis still falls largely on medical rehabilitation, as opposed to social rehabilitation.

Since the restoration of independence to Lithuania many changes have occurred in relation to persons with disabilities, their rehabilitation and integration into society. The preliminary steps and the foundations for the development of a system of rehabilitation services, namely those relating to employment, have been laid. Vocational rehabilitation can be divided into two very distinct aspects. The first is the medical rehabilitation of persons with disabilities, which comprises the provision of medical treatment and appropriate and compensatory technology. The second aspect is their social and vocational rehabilitation, which entails determining the level of independence of a person and the necessary steps to reintegrate him or her into society through education and employment.

Medical rehabilitation is fairly well developed in Lithuania, where the disabled receive the necessary medical treatment, including the provision of necessary compensatory equipment. The services are not ideal but great progress has been made in this direction.

Vocational rehabilitation is unfortunately not so well developed. After having undergone medical rehabilitation persons with disabilities must apply to the National Medical and Social Expertise Commission for a disability grading which determines the level of pension they will receive and their eligibility to work. Generally, people are content to receive the pension and not to proceed one step further and seek employment, education or new skills.

Currently there are four main rehabilitation centres in Lithuania providing vocational rehabilitation services for people with disabilities: Valakupių Rehabilitation Centre, Lithuanian Rehabilitation Centre of Vocational Training, Rehabilitation Centre “Baldžio šilas”, and Rehabilitation Hospital of Palanga.

The Valakupių Rehabilitation Centre provides medical and social services for people with significant physical disabilities to enable them to achieve maximum self-sufficiency and to develop independent living skills. It seeks to develop the vocational skills of the disabled in order to promote their integration into society. The Centre provides a very wide range of vocational rehabilitation services: medical rehabilitation, vocational counselling, assistance in choosing an occupation, training in vocational skills, mediation in job placement.

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Vocational training, retraining and further training of disabled persons is carried out by the labour market training services, special training centres and vocational schools. A person can be referred to the Labour Exchange Training Centre to receive various types of training and to receive assistance in finding a place on the labour market. There are six regional Lithuanian Labour Exchange Training Centres (LLETCS), with 15 labour market training centres.

The organization of the LLETCS is regulated and coordinated by the Ministry of Social Security and Labour. The main aims are:

- to establish and implement the national and international labour exchange training and consultation programme;
- to coordinate the activities of the labour exchange training centres in addressing the national and regional training needs of unemployed persons;
- to prepare qualified professional trainers for career training;
- to write and publish methodological training and consultation publications.

The LLETCS also has a specific programme of professional rehabilitation and social integration of persons with disabilities. The programme has a social and psychological component covering the entry into the workforce, adaptation to the labour market, individual and group behavioural and communication skills, and professional consultations. In addition, training programmes in various skills to meet the current demands of the labour market are offered to persons with disabilities according to each individual's physical abilities.

It must be noted, however, that the number of persons with disabilities participating in the various training programmes are fairly low. This can be attributed to the fact that the majority of persons with disabilities are not aware of these services and that the funding for such courses is limited and therefore cannot meet the current demands. Also, there is a lack of interest and motivation among the disabled themselves to participate in the programmes. Access to different training centres is available only for persons with light disabilities. There are no methodologies for assessing people's remaining or acquired skills or for measuring the potential and efficiency of vocational rehabilitation. There is no legislation regulating the organization, provision, sponsorship and coordination of vocational rehabilitation services. There is a lack of qualified specialists providing vocational rehabilitation services. There is no system of job placement for the disabled following vocational rehabilitation, which means that relatively few disabled persons are employed after their vocational rehabilitation. The inefficiency of the system of vocational rehabilitation and the lack of linkages with the rest of the rehabilitation system explain poor functioning of the current system of vocational rehabilitation for persons with disabilities.

One of the main reforms currently being implemented in the area of social integration of the disabled in Lithuania concerns the determination of a person's disability status and social security measures for the disabled.

Under the existing procedure, the recognition of a person's disability is the main feature of the personal evaluation system under which recommendations are made concerning his or her suitability for work and entitlement to benefit from various social security measures to meet specific needs arising out of a disability. The establishment of disability is based solely on medical criteria, and insufficient attention is paid to such factors as partial disablement, loss of income from work and rehabilitation. The new procedure for establishing disability is designed to assess the specific needs arising from the limitations on a person's ability to function, to participate actively in working life and other circumstances, and would allow the presentation of detailed recommendations by specialists to institutions which determine the level of disability and hence the degree of work disablement. The amount of replacement income in the form of a disability pension depends on the degree of work disablement.

In order to implement this reform a vocational rehabilitation system for the disabled must be created. The planned development of such a vocational rehabilitation system, as one of the objectives of the social integration of the disabled, is part of the National Programme for the Social Integration of People with Disabilities 2003-12. The Programme embodies the State's policy with regard to the medical, vocational and social rehabilitation and integration of the disabled and establishes the underlying objectives and measures for ten years which are to be implemented by the Government and other state institutions in order to continue the process of social integration of the disabled. The Programme covers all the measures stipulated in the Standard Rules on Equalization of Opportunities for Persons with Disabilities approved by the United Nations and follows the

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directives of the European Council. Special emphasis is placed on the promotion of the education and employment of disabled people, the adaptation of the environment to their special needs, medical, social and vocational rehabilitation, and the provision of the tools needed for them to attain a higher level of independence.

The objectives of the Programme in the area of vocational rehabilitation are: to reform the method of determining a person's disablement for work; to increase the responsibility of the labour exchanges in establishing a person's capability for work and coordinating the vocational rehabilitation services; to work out a methodology and procedure for establishing the working capacity of the disabled; to organize the training of vocational rehabilitation specialists and labour market consultants working with the disabled; to adapt the programmes of vocational training to the needs of people with disabilities; to organize vocational rehabilitation, training and re-skilling of people with disabilities in vocational centres, etc.

## **Employment of persons with disabilities**

Since the restoration of independence, several measures have been introduced to resolve the problems of employment for persons with disabilities. Inter alia, persons with disabilities are given priority employment in appropriate workplaces; support is given for jobs traditionally held by persons with disabilities, or companies in the disabled community; job opportunities are created for persons with disabilities; persons with disabilities are encouraged to establish small businesses; and educational opportunities are provided to improve the competitiveness of persons with disabilities on the labour market.

Various privileges have been introduced for persons with disabilities and enterprises belonging to their community:

- there is a compulsory disabled employment quota for enterprises employing 50 or more people;
- a person with a disability can be dismissed only with the permission of the social welfare office of the city council, and the individual must be notified of his termination four months in advance;
- enterprises established by NGOs working in the field of disability are entitled to tax relief and subsidies from the national budget for state social insurance and energy, as well as reduced taxation levels, discounts on rental costs and personal income tax rebates from municipal councils;
- persons with disabilities can select employment based on their physical and mental state, professional qualifications and interests; they can be employed in standard workplaces or in workplaces specially created for persons with disabilities; places for the disabled and the professional qualifications required are determined by the Ministries of Health and Social Security and of Labour;
- an employer cannot decline to employ persons with disabilities or discriminate against them purely because of their disability, if their qualifications meet all the requirements of a job;
- an employer who offers employment to a disabled person will be entitled to a subsidy in respect of his or her first three months' salary, on condition that the employer keeps the disabled person on the payroll for at least three years.

A person with an acquired or congenital disability who wishes to enter the labour market has two options: to use the services of the labour exchange; or to seek employment through his or her own contact or through NGOs working in the field of disability.

A person with a disability who wishes to register at the Lithuanian Labour Exchange must show a passport, a certificate of disability and a recommendation for employment issued by the Medical Health Experts Commission. The recommendation identifies what type of work the person is able to carry out, including work hours (e.g. part-time, shift work, special working conditions, etc.).

The Labour Exchange caters to all unemployed persons and provides a variety of services. These include helping both employees and employers to find jobs and fill vacancies, training and retraining unemployed persons, offering specific programmes for disadvantaged groups, etc.

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Although the staff of the Labour Exchange do not have specific training in working with socially disadvantaged groups, they do have recommended guidelines which form the basis of their work with persons with disabilities.

The Labour Exchange acts as a referral centre for the Lithuanian Labour Exchange Training Programme but does not itself conduct training programmes. However, the Labour Exchange does have a programme for the creation of new workplaces for socially disadvantaged groups. The objective of the programme is to assist those persons who have the greatest difficulty in competing in the labour market.

A variety of services for persons with disabilities is offered by the Labour Exchange, including:

- the creation of new jobs for which the employer is partially compensated;
- the choice of employment matching the person's professional qualifications and physical condition;
- opportunities to retrain provided that the persons themselves meet the necessary associated costs;
- participation in a free training programme for setting up new businesses, conducted by the Labour Exchange, and assistance in formulating their business plan if they wish to start their own business;
- interest-free loans to start establishing businesses for persons with disabilities who have the necessary capital or guarantees.

Since 1998 there has also been a yearly agreement between the Labour Exchange and the Council of the Disabled setting out an action plan for the coming year. The main points covered are closer cooperation with the rehabilitation centres, plans for consultation and the submission of proposals to the Ministry.

The Labour Exchange works with disability NGOs. In the event that the person registering is a member of such an NGO, the Labour Exchange contacts the NGO and seeks information as to whether there might be a vacancy in one of its employment centres.

A large percentage of persons with disabilities who are active in the labour market are employed in enterprises established by disability NGOs. The larger disability NGOs have their own, relatively large enterprises which systematically employ people with disabilities. Six large companies belong to the Lithuanian Union of the Blind and Visually Impaired, four to the Lithuanian Union of the Deaf and two to the Lithuanian Union of the Disabled. Given the current economic climate in Lithuania, these enterprises are now struggling to compete in the market, to maintain the same level of production and to continue to employ the previous quota of persons with disabilities.

A more recent trend has been the establishment by disability NGOs of smaller enterprises or day centres for persons with disabilities. The number of these centres does not meet the current needs and demands of persons with disabilities, and in most cases the centres have waiting lists. Often they have been established together with local social welfare departments which provide the bulk of the funding for their operation. Another feature of these centres is that the users are usually persons with congenital disabilities or persons who have acquired their disability many years ago and rarely persons who have acquired a disability recently. These centres have been established as a result of user involvement, largely through the advocacy efforts of disability NGOs. The actual activities and programmes of the centres are determined by their administrative body. Each centre functions independently and it is their prerogative to decide how much they involve users in decision-making and planning.

To sum up, there are a lot of problems in the area of employment and vocational rehabilitation as well as in other areas of social integration of the disabled in Lithuania. However, these problems are dealt with at both the national and the regional level. Hopefully, the adoption of new legislation and the implementation of various reforms in the area of social integration of the disabled will improve the situation. Lithuania's disability policy is currently focusing more on the social potential of disabled persons, their active involvement in the labour market, the protection of their human rights and the promotion of society's responsibility rather than on the problem of the physical and mental limitations experienced by the disabled. The right of the disabled to full equality is increasingly viewed from the perspective of the governments' obligation to eliminate the



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discrimination and obstacles encountered by individuals with disabilities. Measures to guarantee equal rights and to attain, through a variety of programmes, full participation of all citizens in the country's economic and social progress are now being taken at every governmental level, including the level of the European Union. Hopefully, Lithuania's membership of the EU will enable it to complete the process of social integration of the disabled.

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## Poland

### Legislative framework and legal trends

In Poland, the legislation concerning people with disabilities is based on the principles of non-discrimination, integration and equal opportunities. The principle of public consultation is respected in the process of shaping legislation and establishing priorities for action. Actions taken in favour of disabled persons are carried out in conformity with the subsidiary principle.

The rights of all the Polish citizens are guaranteed by the Constitution of the Republic of Poland, dated April 2, 1997.

The Constitution determines the fundamental rules of the State's social policy, respecting freedom and justice, the legal protection of private and family life, the citizens' right to decide on their personal life, the collaboration of the authorities, social dialogue, and the principle of subsidiary reinforcing the rights of citizens and their communities.

Moreover, some special rights have been provided by the Constitution to equalize the opportunities of persons from vulnerable groups, such as the disabled, in the field of social security, access to health protection and special health care, as well as to ensure disabled persons' subsistence, adaptation to work and social communication.

Article 32 of the Polish Constitution stipulates that "everybody is equal according to the law" and "has the right to equal treatment by the public authorities" and that "nobody shall be discriminated against in political, social or economic life for any reason". This standard also implies an anti-discriminatory measure with respect to disability.

For the first time a general anti-discrimination provision concerning employment relations was included in 1996 into the Labour Code of 1974. Since 1 January 2002, article 113 reads as follows: "Discrimination of any kind, direct or indirect, in employment, in particular on the grounds of sex, age, disability, race, nationality, convictions, especially political or religious, as well as union affiliation, shall be inadmissible."

The Constitutional bestowal of equal rights on all citizens has to be accompanied by the provision of adequate tools and resources ensuring equal opportunities for all in various areas to benefit from the same rights, irrespective of his/her individual situation.

The most important legal regulations concerning the disabled are included in the following Acts and regulations:

- Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Disabled Persons;
- Act of 14 December 1994 on Employment and Counteracting Unemployment;
- Act of 7 September 1991 on the Education System;
- Regulation of the Council of Ministers of 22 January 1991 on terms, forms, mode of granting, payment as well as amounts of material assistance for students of regular courses;
- Act of 17 December 1989 on Pensions from the Social Insurance Fund;
- Act of 23 January 2003 on Common Insurance under the National Health Fund (which has replaced the Act of 6 February 1997 on Common Health Insurance since 1 April 2003);
- Act of 19 August 1994 on Mental Health Protection;
- Act of 29 November 1990 on Social Assistance;
- Act of 15 November 1984 – Transportation Law;
- Act of 20 June 1992 on the Right to a Free Pass or Reduced Fare on Public Collective Transport;
- Act of 7 July 1994 – Building Law;
- Regulations of 14 December 1994 on Technical Conditions that Buildings Should Meet and Their Situation (*executive ordinance to the Building Law*);
- Act of 21 June 2001 on Housing Allowances.

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The legislation in favour of people with disabilities contributes to the progressive improvement of their situation in society and promotes the increasing access of persons with disabilities to:

- mainstream primary, secondary and higher education;
- medical rehabilitation services;
- orthopaedic and auxiliary appliances and technical medical equipment (which are now partially or fully payable);
- public buildings and public transport;
- housing;
- vocational training and employment, especially for people with a severe or moderate degree of disability.

The first Act regulating the employment and vocational rehabilitation of persons with disabilities in detail was adopted by the Polish Parliament on 9 May 1991 as the Act on Vocational Rehabilitation and Employment of Disabled Persons and came into force on 1 July 1991.

Since 1 January 1998 this Act has been replaced by the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Disabled Persons. It has been extensively amended in the light of the changes resulting from four great reforms implemented in Poland in 1999 (public administration, social insurance, medical care and educational system). It was further amended in December 2002 to achieve full compliance with the *acquis communautaire* (particularly in the field of taxes and competition policy) prior to Poland's accession to the EU.

These two Acts provided the basis for setting up the post of Secretary of State – Government Plenipotentiary for Disabled People at the Ministry of Economy, Labour and Social Policy (previously the Ministry of Labour and Social Policy) as well as the State Fund for the Rehabilitation of Disabled Persons (PFRON).

The Plenipotentiary is responsible, inter alia, for shaping the policy on the employment and vocational and social rehabilitation of the disabled and for the coordination and supervision of the tasks deriving from the Act. At the same time he fulfils the function of President of the Supervisory Board of the State Fund for the Rehabilitation of Disabled Persons.

The financial resources of the Fund allocated to the tasks deriving from the Act (for total or partial financing) come mostly from employers' payments under the quota-levy system implemented in Poland on 1 July 1991 on the basis of the Act of 9 May 1991.

The Act provides some basic rights for disabled persons in the area of vocational and social rehabilitation, such as the right to attend occupational therapy workshops, to reduced hours of work without a reduction in remuneration, to training or extra leaves from work to enable participation in rehabilitation courses. Moreover, it provides tools to promote a positive attitude among such persons and supports their employment, particularly on the open labour market.

Polish legislation in the field of disability offers good prospects for the improvement of the situation of disabled persons, but the pace and extent of implementation of this legislation depend largely on available financial resources.

Poland looks forward to early membership of the European Union, which will afford it the possibility of taking advantage of the Structural Funds, including the European Social Fund (ESF). The government administration and services acquire and disseminate knowledge as to how to prepare the regional and local strategy, action plans and operational programmes in the field of disability for the purpose of the social inclusion and economic activity of disabled persons, which might be financially supported by ESF.

Moreover, from 1 May 2004 Poland, as an EU Member State, will be obliged to apply the rules and procedures for granting public aid to entrepreneurs in accordance with EU legislation and practice.

This will affect the way in which the employers of disabled persons benefit from the forms of assistance granted – in accordance with the Act of 27 August 1997 – from the state budget, including PFRON resources. The basic intention of the Polish Government is to ensure a more effective use of public funds for the promotion of disabled persons on the labour market by creating a close link between the system of economic incentives for the employer and the scale of

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employment he/she provides for the disabled and the degree of disability of his/her employees, as well as to improve the accessibility of the open labour market for the disabled.

## Definition of disability

The assessment of disability is carried out in accordance with the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Disabled Persons, which came into effect on 1 January 1998. The provisions of the Act concerning disability assessment were considerably amended in December 2002, and these came into force on 1 February 2003.

According to the definition included in the Act, “disability means the permanent or periodic inability to perform social roles due to permanent or long-term body impairment, in particular resulting in inability to work”.

A person’s disability has to be confirmed by a legal decision certifying his/her degree of disability as defined in the Act (severe, moderate or minor) and as assessed by a team of experts, or his/her total or partial inability to work under separate legislation (concerning the social insurance system), or his/her disability (in the case of a person under 16 years of age).

The three degrees of disability are applied to meet the objectives of the Act. A decision assessing the degree of disability or disability also constitutes a basis for granting benefits and entitlements under separate legislation.

A severe degree of disability corresponds to the case of a person with a physical impairment, unable to work or able to work only in sheltered working conditions, who requires the permanent or long-term care and assistance of other persons to perform his/her social roles, on account of his/her inability to lead an independent existence.

A moderate degree of disability corresponds to the case of a person with a physical impairment, unable to work or able to work only in sheltered work conditions, or requiring temporary or partial assistance of other persons to perform his/her social roles.

A minor degree of disability corresponds to the case of a person with a physical impairment, resulting in a significant reduction of the ability to perform work as compared with the ability of a person with similar vocational qualifications with his/her full mental and physical capacities, or a person with a restricted ability to perform social roles which may however be compensated by means of orthopaedic equipment, auxiliary appliances or technical means.

The inability to lead an independent existence means physical impairment to a degree which hampers the satisfaction – without the help of other persons – of a person’s primary living needs, including above all autonomy, movement and communication.

Assessment of a severe or moderate degree of disability does not exclude the possibility of a person being employed by an employer who does not provide sheltered working conditions, if the National Labour Inspectorate has issued a positive opinion on the adaptation of the workstation to the needs of persons with disabilities.

Persons under 16 years of age shall be considered as persons with disabilities if the impairment of their physical or mental abilities, which is expected to last more than 12 months, is due to a congenital defect, long-lasting disease or physical impairment, as a result of which they require full care or assistance in order to satisfy their basic living needs, to a greater degree than is normal for a person that age.

The decision of the local team of experts, apart from the assessment of the degree of disability should also include recommendations concerning, in particular:

- appropriate employment, taking into consideration the mental and physical features of a given person;
- training, including specialist training;
- employment in an occupational activity;
- participation in occupational therapy;
- the provision of orthopaedic equipment, auxiliary appliances and technical facilities to facilitate the person’s functioning;

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- taking advantage of a system of environmental support for the person's independent existence, i.e. taking advantage of social, care, therapeutic and rehabilitation services provided by a network of social assistance institutions, non-governmental organizations and other organizations;
  - the necessity of the permanent long-term care or help of another person owing to his/her considerably reduced capacity for independent existence;
  - the necessity of permanent participation of a child's guardian, on an everyday basis, in the process of his/her medical treatment, rehabilitation and education;
  - the fulfilment of the disabled person's requirements for receiving "the parking card" in accordance with the Act of 20 June 1997 – Law on Road Traffic.

The disability assessment system for purposes not related to social insurance was implemented in September 1997, based on the amendment of the Act of 9 May 1991 on the Employment and Vocational Rehabilitation of Disabled Persons. The system of disability assessment for pension-related purposes is thus a separate system that now comes under the Act of 17 December 1998 on Pensions from the Social Insurance Fund.

The Social Insurance Institution is responsible for the assessment of a person's inability to work and to live independently, as well as for determining the reasons for a person's requalification in the event of an inability to retain his/her present job. The certificate issued by the authorized physician of the Social Insurance Institution provides the basis for granting the benefits stipulated by the Act on Retirement Pensions and Other Pensions from the Social Insurance Fund, including training pensions. The certificates issued by the authorized physicians of the Social Insurance Institution are considered to be equivalent to the relevant certificates of the degree of disability issued by the local or regional teams of experts for the assessment of disability (but not vice versa).

This means that a certificate issued by the authorized physician of the Social Insurance Institution on total inability to work and live independently assessed in accordance with the Act of 17 December 1998 on Retirement Pensions and Other Pensions from the Social Insurance Fund is considered to be equivalent to the determination of a severe degree of disability, total inability to work assessed in accordance with the Act is considered to be equivalent to the determination of a moderate degree of disability, and partial inability to work and reasons for requalification are considered to be equivalent to the determination of a minor degree of disability.

## Statistics

Information on the number of persons with disabilities may be obtained from the National Census as well as from interview surveys conducted by the Central Statistical Office.

Generally the disabled population consists of persons with a legally confirmed disability (legal criteria) and persons not possessing such a confirmation but who subjectively classify themselves as disabled (biological criteria).

The most recent complete statistical data concerning the whole population of persons with disabilities (including people living in collective households) came from the latest National Census of 2002. The results show that there are 5,457,000 disabled people in Poland (14.3 per cent of the total population of Poland), and 4,450,000 of whom have legal confirmation of their disability (11.6 per cent of the total population of Poland). Children in the 0-15 age group constitute 3.04 per cent of the total number of legally disabled; 4,315,000 of the legally confirmed disabled are adults (aged 16 years or more), including nearly 2,206,000 women.

The structure of the population of adult legally disabled persons is as follows:

- 24.68 per cent of them have a severe degree of disability;
- 33.06 per cent have a moderate degree of disability;
- 36.42 per cent have a minor degree of disability;
- 5.84 per cent do not possess an assessed degree of disability.

Of every 1,000 people 113 were disabled in the 16+ age group and four were disabled children in the 0-15 age group.

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In April 1996 the Central Statistical Office investigated the issue of disability by conducting the sample Health Interview Survey of the Population of Poland. It was based on legal and biological criteria but was carried out only in households, excluding the part of the population living in collective households.

Cyclical (quarterly) Labour Force Surveys (LFS) provide current data on the number of legally disabled persons aged 15 years and over. Considering the results of the LFS study we can state that the number of the legally disabled persons aged 15 years and over, as well as the rate of disability over the last few years, remains at a similar level.

According to the LFS for the 4th quarter of 2001, there were 4,312,000 disabled persons; the index of disability in this age group amounted to 14 per cent. The following data concerning the disabled were also available: activity rate, 17 per cent; employment rate, 14.4 per cent; unemployment rate, 15.3 per cent.

This Survey for the 4th quarter of 2002 shows that there are 4,235,000 persons with disabilities aged 15 years and over (the index of disability in this age group amounted to 13.6 per cent), including 733,000 that are economically active (of which 611,000 persons declared that they are employed). There are 2,782,000 persons with disabilities aged 15 to 64 years; among this group 649,000 persons claim to be economically active, i.e. that they are either employed (529,000) or unemployed.

Other relevant data concerning the disabled aged 15 years and over are as follows: activity rate, 17.3 per cent; employment rate, 14.4 per cent; unemployment rate, 16.6 per cent.

Whereas the LFS study includes data on the employment status as declared by the interviewed persons, the data on registered unemployment of persons with disabilities come from the local labour offices' registers. Some data concerning persons with disabilities have also been registered by institutions dealing with the social and vocational rehabilitation and employment of the persons with disabilities. They are collected by the State Fund for Rehabilitation of Disabled Persons.

## **Vocational rehabilitation of persons with disabilities**

Disabled persons may benefit from the vocational rehabilitation and training courses designed for the overall population of the unemployed or jobseekers, in accordance with the Act of 14 December 1994 on Employment and Counteracting Unemployment, and which are financed by the Labour Fund. These services involve vocational guidance and placement for the unemployed and various activities for unemployed school-leavers and graduates carried out by local and regional labour offices. For several years now training has also been organized for vocational counsellors employed in labour offices to prepare them for working with the disabled.

The Act on Employment and Counteracting Unemployment contains provisions on non-discrimination relating to disabled persons, in accordance with Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

The Act regulates the conditions of access to employment, job placement services, vocational guidance and vocational training. The relevant articles read as follows:

Job placement services are based on the principle of equality, which means that county labour offices have an obligation to assist all jobseekers in their search for employment irrespective of their nationality, affiliation with political or voluntary organizations, gender, religious belief or other circumstances. (Article 12(2), point 3)

The vacancy information (on available jobs or pre-employment training positions) placed by an employer may not contain any requirements that discriminate against candidates on the grounds of gender, age, disability, race, nationality, opinion, especially political or religious convictions, or trade union membership. (Article 12(3a))

During the recruitment of candidates for training, no requirements may be imposed which discriminate against candidates on the grounds of gender, age, disability, race, nationality, opinion, especially political or religious convictions, or trade union membership. (Article 15(1a), which will enter into force on the day of Poland's accession to the European Union.)

Vocational guidance is based on the principle of equality applied to users of vocational guidance services irrespective of their nationality, gender, religion, affiliation with political or voluntary organizations, or other circumstances. (Article 17(1), point 3)

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Sanctions for refusal to employ a candidate to fill a job vacancy or pre-employment training position on the grounds of gender, age, disability, race nationality, opinion, especially political or religious convictions, or trade union membership, were added to article 66 of the Act on Employment and Counteracting Unemployment. These sanctions have been in force since 1 January 2002.

The non-discrimination provisions are also embodied in the Labour Code and in draft amendments to the Labour Code which are currently under consideration by the Polish Sejm.

Special measures aimed at the disabled unemployed and disabled jobseekers without work, who are not treated as unemployed because they have acquired the right to receive pensions on account of their inability to work or to receive training pension, are laid down in the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Disabled Persons. The measures are financed from the resources of the State Fund for Rehabilitation of Disabled Persons.

Despite their theoretical admissibility to all programmes aimed at the general unemployed population and financed from the Labour Fund, in the current situation of high unemployment, the disabled unemployed are particularly interested in the special measures, that are designed for them.

In accordance with the provisions of the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons, vocational rehabilitation is aimed at helping persons with disabilities to find and keep an appropriate employment and professional advancement, by providing them with an opportunity to take advantage of vocational guidance, training and job placement. The Act also specifies the activities which are necessary to meet this objective, namely:

- evaluation of ability to work, in particular through: medical and psychological examinations to determine their physical, psychological and mental ability to perform an occupation and evaluate the possibilities of increasing this ability;
- recognition of qualifications, vocational experience, abilities and interests;
- conducting vocational guidance, taking into consideration the evaluation of ability to work and allowing for the choice of appropriate occupation and training;
- vocational preparation, taking into consideration employment prospects;
- selection of an appropriate job and equipment of the work post;
- determination of technical means enabling or facilitating performance of the job and – if needed – orthopaedic equipment, auxiliary appliances, rehabilitation equipment, etc.

Training for people with disabilities is organized to increase their employment opportunities, upgrade their vocational skills or increase the level of their vocational activity, in particular if the following circumstances arise:

- lack of vocational skills;
- necessity of changing their skills where there is a lack of appropriate job offers;
- loss of ability to work in their previous occupation.

People with disabilities who have not reached retirement age and are registered in local labour offices as unemployed or jobseekers without work have the right to free training or retraining (fully financed from PFRON resources). The same applies to people with disabilities during the period of notice if an employment contract is to be terminated for reasons connected with the employer and if, as a result of an acquired disability, these people have lost their ability to perform work in their previous occupation, or if the change or upgrading of their skills might increase their employment opportunities.

Training for people with disabilities is carried out in the form of extra-school courses and is aimed at teaching an occupation, at retraining or at developing skills. The training may be conducted in training institutions or in special training and rehabilitation centres.

People with disabilities who require a special programme of training as well as medical and social rehabilitation may be referred by the appropriate services to a special training and rehabilitation centre or other training centre.

The tasks of special training and rehabilitation centres include:

- training of people whose access to training in other centres is impeded or rendered difficult by a disability;

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- assessment of the psycho-physical ability of a given person in relation to the requirements of various occupations;
  - assessment, through appropriate tests of proficiency and practical tests, of the abilities of a given person and the possibility of their development;
  - providing trainees with accommodation, food, didactic aids, medical care and rehabilitation services.

Special training and rehabilitation centres are created and closed by the marshals of voivodships (regions). The government of a voivodship may also commission other institutions to perform the tasks of a special training and rehabilitation centre. The cost of the establishment and functioning of a special centre is financed from the resources of the State Fund for Rehabilitation of Disabled Persons (PFRON), as defined in the regulations issued by the Minister of Economy, Labour and Social Policy.

In Poland no special centre has yet been established in accordance with these provisions. However, many non-governmental organizations own training centres, including centres specializing in training for disabled persons. Some of them are designed for the social and vocational rehabilitation of people with specific disabilities, such as the deaf, the blind or users of wheelchairs.

The Act of 27 August 1997 created an opportunity for PFRON to commission self-government units and non-governmental organizations, including those acting at the local level, to carry out vocational and social rehabilitation activities. These activities may also be performed by non-governmental organizations using PFRON resources.

Training for people with disabilities can be organized by the employer, who can apply for the refunding of expenses incurred in connection with the training of disabled employees. The refunding can be paid out of PFRON resources, at the amount specified in the Act. Refunded costs have to be reimbursed if the employment contract with the trained disabled worker is terminated within 24 months of completion of the training and if such termination is attributable to reasons connected with the employer.

In the framework of the reform of the social insurance system, since 1 September 1997, an opportunity has been introduced to grant training pensions that are financed from the Social Insurance Fund. The pension may be granted for a period of six months to persons who, on account of their state of health, have lost their ability to work in their previous occupation, if they decide to undertake vocational retraining. The duration of the pension may be prolonged if necessary for them to complete their retraining, up to a maximum of 30 months. This training is also financed from the State Fund for Rehabilitation of Disabled Persons (PFRON).

Poland's vocational rehabilitation system is designed for persons with various kinds and degrees of disability. It is possible for people who are so handicapped, and who cannot be employed, to participate in occupational therapy workshops, which ensure their social rehabilitation in conjunction with their vocational rehabilitation. These workshops may be organized by employers running sheltered work establishments or by other organizational units.

The vocational and social rehabilitation process may be supported through the participation of persons with disabilities in holiday rehabilitation sessions. The occupational therapy workshops and participation in holiday rehabilitation sessions are co-financed with PFRON resources.

## **Employment**

The strategy of the State concerning the employment of people with disabilities is aimed at providing these people with work corresponding to their skills and psycho-physical capabilities. It is also aimed at maintaining in employment as large a number as possible of disabled workers. The effective implementation of this strategy requires compliance with the principles of non-discrimination and equal opportunities for people with disabilities on the labour market.

Under the Labour Code, each employer is responsible for health and safety at work. The employer is obliged to protect the health and life of workers and to ensure safe and healthy working conditions, taking advantage of scientific and technological progress as appropriate. The facilities, machines, technical equipment and work tools should meet health and safety requirements.



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Within the scope of the above obligations (defined in detailed by the Regulation of the Minister of Labour and Social Policy of 26 September 1997 on general rules of health and safety at work), the employer must seek to adapt a workplace and access thereto, in the best possible manner, to the psychological and physical needs of each worker, including the needs resulting from a person's disability. Employers must ensure the freedom of movement of their workers, so that they can perform their work in a safe manner, with due attention to the requirements of ergonomics and to the adaptation of sanitary facilities and access to them to the needs and capabilities of disabled workers.

The Act on Vocational Rehabilitation and Employment of Disabled Persons contains a number of provisions allowing for "reasonable accommodation" and "positive action", as referred to in Council Directive 2000/78/CE (articles 5 and 7), which are aimed at facilitating the disabled persons' access to employment, including self-employment. Implementation of these tasks is possible through the use of funds of the PFRON. Part of the recently amended provisions of the Act will enter into force from 1 January 2004; others already entered into force on 1 February 2003.

The State Fund for Rehabilitation of Disabled Persons allocates part of its resources to local and regional authorities for the vocational and social rehabilitation and employment of disabled persons as provided for in the Act.

The major statutory measures aimed directly at disabled persons include:

- granting start-up loans for an economic or agricultural activity to disabled persons registered with the local labour office as unemployed or as jobseekers without work;
- co-financing of the interest on bank loans contracted by disabled persons to continue an economic activity or run their own or a leased agricultural farm;
- co-financing of part of the social insurance contributions for disabled persons undertaking a business activity for the first time (the provision will enter into force as from 1 January 2004).

In addition, the law provides for other measures aimed at placing and retaining disabled persons in employment and maintaining their jobs. These measures, which assist employers in employing disabled persons and meeting the requirements of the Act, include in particular:

- reimbursement of the costs of adaptation of the newly created or existing workstations for disabled persons, according to the needs resulting from their disabilities;
- monthly co-financing of the remuneration of disabled workers for a period of one year, or longer if justified (this will be paid by the PFRON as from 1 January 2004 out of state budget resources for employed disabled persons registered with the PFRON);
- financing of certain types of social insurance contribution of disabled employees.

The amount of co-financing of remuneration and social insurance contributions depends on the employee's degree of disability and place of employment (i.e. on the sheltered or open labour market), as well on the size of an employing establishment acting on the open labour market and on the employer fulfilment of his/her quota obligation.

An employer running a sheltered work establishment is entitled to additional financial support, including:

- co-financing of up to 50 per cent of interest on bank credit loans used for the vocational and social rehabilitation of disabled persons;
- reimbursement (up to a specified amount) of the additional cost of employing disabled persons who have been diagnosed as suffering from a psychological disability, mental retardation or epilepsy;
- a loan granted on a one-off basis for the protection of the work posts of disabled persons in the establishment.

The sheltered labour market comprises sheltered work establishments and vocational activity establishments. In the case of vocational activity establishments, which can be set up – with the aim of employing people with a severe degree of disability – by a *poviat*, *gmina*, foundation, association or any other social organization with the statutory task of carrying out the vocational and social rehabilitation of the disabled, the cost of their creation and activity may be financed out of PFRON or self-government resources or from another source.

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The role of a vocational activity establishment is to provide extensive support for disabled persons with minimum job opportunities in their working environment and to guide their rehabilitation towards the further development of their vocational potential. Employment in vocational activity establishments is targeted at the vocational and social rehabilitation of disabled persons so as to equip them for the open environment conditions. They are also helped to lead full, independent and active lives in accordance with their individual abilities. The employment rate of people with a severe degree of disability in vocational activity establishments varies (from 71.4 per cent to 75 per cent), depending on the kind of activity which is carried out by the establishment.

Vocational activity establishments may be created in accordance with the regulations of the Minister of Labour and Social Policy, which came into force on 15 February 2000. Since this date seven vocational activity establishments have been created and granted this status. Five more establishments of this kind are in the process of being set up. It is planned to create more vocational activity establishments so that there is at least one in every region.

Sheltered work establishments provide the basic form of sheltered employment. Most of them are production, trading and service units and function as independent, fully competitive firms. Such establishments provide suitable working conditions for persons who because of a disability cannot obtain employment in the open market.

According to the Act, sheltered work establishment status is applicable to an employer who has run a business for at least 12 months, employed at least 20 employees (or their full-time equivalent) and complied with the disabled employment index for at least six months, subject to the following stipulations:

- the disabled employment index requires that at least 40 per cent of the total number of employees are disabled and at least 10 per cent suffer from a severe or moderate degree of disability, or at least 30 per cent of the employees are blind, mentally ill or intellectually handicapped, with a severe or moderate degree of disability;
- the buildings and premises occupied by the sheltered work establishment comply with occupational safety and health regulations, and the workplaces and sanitary facilities are adapted to the needs of disabled persons and meet accessibility requirements;
- emergency and specialist medical care, counselling and rehabilitation services are ensured;
- the employer applies for the status of sheltered work establishment.

At the end of the first half of 2003 there were about 3,000 sheltered work establishments in Poland. About 11 per cent of them are cooperatives of invalids or blind persons. They employ nearly 33 per cent of the total number of employed persons with disabilities. In total some 204,000 disabled people worked there, making up more than 59 per cent of these establishments' staff.

The sheltered work establishments and vocational activity establishments play an important role in the vocational rehabilitation of people with disabilities and for this reason they have by Act of 27 August 1997 been guaranteed the right to several tax exemptions (excluding income tax, the tax on gambling, value-added tax, excise tax, customs duty and transport tax) and an exemption from some non-tax budgetary payments (excluding stamp duty).

Ninety per cent of the resources received by the sheltered work establishment thanks to the abovementioned exemptions has to be allocated to a rehabilitation fund for disabled persons and used for financing the vocational, social and medical rehabilitation and insurance of disabled persons, the improvement of their working conditions or individual assistance for the disabled employees, pursuant to a regulation in force and to the internal regulations of the employing establishment on the use of the sheltered work establishment's fund for the rehabilitation of disabled persons. In the case of vocational activity establishments, such resources are transferred in full to an establishment activity fund. Both funds remain at the disposal of the employer and are used for the benefit of the disabled employees.

As an important supplement to activities carried out on the basis of the above mentioned Acts, several short- or long-term programmes financed from the resources of the PFRON have been implemented. Some of them are directly aimed at persons with disabilities to stimulate their vocational and social activity or to increase their opportunity of starting or continuing work or education; others are for the employers running sheltered work establishments, to support the employment of persons with disabilities. Assistance is most often granted to the disabled in the form of low-interest loans for the purchase of goods (e.g. a computer or electric wheelchair) or in the

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form of financing for training e.g. in the use of computers. Some of these programmes provided for the remission of part of a loan.

The Act of 27 August 1997 on Vocational and Social Rehabilitation of Disabled Persons and on Employment of Disabled Persons imposes an obligation on employers employing 25 persons or more to make payments to the PFRON when they do not achieve a specified rate of employment of disabled persons, calculated in terms of full-time jobs. This is a continuation (with some changes) of the quota-levy system adopted in 1991.

On the one hand this provision encourages employers to employ disabled persons; on the other hand it allows PFRON to acquire funds from the said quota-levy system, thus making it possible to implement the tasks for disabled persons resulting from the Act.

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## The Russian Federation

The problem of disability is one of the most important social problems experienced by any society. The level and amount of disability depends on a number of factors, including economic, social, environmental and political factors, which form a base for determining a country's social policy.

In the Russian Federation, to ensure the active participation of persons with disabilities in the life of society and to protect their rights, the legislation consists of general and specific provisions. The general provisions are not discriminatory in any way. On the contrary, they seek to provide the disabled with the same abilities and chances as other citizens in enjoying their civil, economic, political and other rights and democratic freedoms that are guaranteed by the Constitution of the Russian Federation. The civil and political rights of persons with disabilities are not specified individually, as in some other countries' legislation; they are cited along with all other Russian citizens' rights, thereby emphasizing the fact of their equal rights. Specific legislation is aimed at resolving the problems of the special needs of persons with disabilities, such as the adaptation of buildings, access to information of specific relevance to the disabled, creation of special entitlements and compensatory payments, adoption of measures concerning persons with disabilities in such fields as education, employment, rehabilitation, health care, sport and culture. Social organizations for persons with disability always play an active part in the Russian Federation national legislation.

In 1995 the Government adopted a Federal Act on the social protection of persons with disabilities, which, for the first time as a national policy objective of the Russian Federation, proclaimed not just the social protection of persons with disabilities but also their equality with other citizens in terms of human rights and democratic freedoms. The Act sets out in an entirely new way the meaning of such terms as "a person with disabilities", "rehabilitation", and "social protection". It also specifies the competence and terms of reference of local and national authorities in dealing with matters connected with persons with disabilities and defines the concept of responsibility for causing disabilities or harm to a person's health.

The first step was to establish a legal base for defining a person with disabilities. By decision of the Government of the Russian Federation, a state authority for conducting medical and social examinations was established and a set of regulations was issued for purposes of defining or classifying a person as disabled. The definition of a person with disabilities is based on entirely new criteria which determine not a loss of ability to work in normal conditions but various types of disorder of vital functions. A joint resolution of the Ministry of Labour and Ministry of Health has confirmed the new classification and temporary criteria for medical and social examinations. According to the current law "a person with a disability is classified as a person with a health problem involving a permanent disorder of bodily functions caused by a disease, trauma or defect, which limits the person's vital functions and creates a need for social protection".

At present in the Russian Federation there are 10.8 million people with disabilities, 1,786,000 of whom belong to the first group (with the most serious disabilities), 6,958,000 to the second group and 2,056,000 to the third group; 685,000 children suffer from disabilities. During the past ten years between 900,000 and 1 million people a year were classified as persons with disabilities for the first time. The number of children with disabilities increased from 240,000 to 658,000. The number of people classified as suffering from disabilities comprises a large proportion of people of working age (53 per cent).

One of the most important rights guaranteed to persons with disabilities in the Russian Federation is the right to education. This is established by articles 18 and 19 of the Act on the Social Protection of Persons with Disabilities, which provides for the upbringing and teaching of children with disabilities and the education of persons with disabilities. According to this Act children with disabilities are provided with extra pre-school and out-of-school classes in general education and in primary, secondary and higher vocational education. The concept of integrated education for persons with disabilities was quite unpopular in the Russian Federation for a long time. Nowadays, efforts are being made to create the necessary conditions for such integrated education, providing and using teaching methods that are adapted to the individual characteristics of persons with disabilities in educational institutions together with healthy students. This is the policy recommended by UNESCO; it has a number of advantages as a real means of integration of persons with disabilities in society and enables young people to engage in real coexistence. There are

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various educational institutions in the Russian Federation that enable persons with disabilities to enjoy their right to education in practice. These institutions are provided with special syllabuses and additional technical resources which make possible the co-education of healthy persons and those with disabilities. However, the availability of special technical equipment to facilitate the unrestricted physical and educational activities of persons with disabilities, as well as the psychological support of students and teachers engaged in the common education system, is far from satisfactory. Traditionally and historically it has usually been preferred to educate persons with disabilities in specialized educational institutions. At present such specialized educational institutions do exist for persons with particular requirements. Vocational training in these institutions must meet state education standards and is based on syllabuses that are specially designed for persons with disabilities. The students are supplied with free or reduced-price books and materials and can be provided with deaf-and-mute interpreters if necessary. Persons with disabilities can enter state universities and vocational schools on a non-competitive basis and take up different vocational courses and free on-the job training and apprenticeship courses and programmes.

In the Russian Federation there are 42 specialized primary and secondary schools, i.e. 11 federal/general colleges and technical vocational colleges and 31 vocational schools and technical colleges, run by various administrative bodies of the Russian Federation for 7,200 students. The students are trained in 29 professions at the secondary school level and 34 professions at the primary vocational level. The teaching employs modern methods and syllabuses, which enable persons with disabilities to fulfil their ambitions and engage in highly fulfilling occupations. After these courses, 60 to 80 per cent of students find employment in the chosen profession during the first 12 months. The colleges and technical vocational schools cooperate with universities and other higher education institutions, coordinating their syllabuses so as to provide a higher level education.

In the past five years the number of persons with disabilities who have been accepted for study in universities has tripled, to about 3,000 people a year.

At present there are about 14,000 students with disabilities in 259 higher educational institutions of 72 different administrative bodies of the Russian Federation.

There also is a boarding institute in Moscow for 250 people with muscular and skeletal disorders – the only such institute in the world.

Modern training methods, such as distance learning, are being implemented too.

One of the most important human rights of persons with disabilities is the right to work, even though their working abilities may be limited. The right for work is guaranteed for persons with disabilities by articles 20-24 of the Social Protection of Persons with Disabilities Act and by the Employment Act of the Russian Federation. These regulations do not create any obstacles for persons with disabilities in finding employment; on the contrary, they are intended to create a real chance for them to engage in useful and profitable jobs. These laws and regulations not only declare this right, but also establish methods of putting it into practice.

The most radical way of increasing the well-being and prosperity of persons with disabilities is to provide them with employment on the labour market. Up till now, the most important source of employment for persons with disabilities in the Russian Federation has been the so-called “special firms” (*spetspredpriyatiya*), which use the labour of persons with disabilities. Today, there are about 3,000 such firms providing about 240,000 workplaces.

Unfortunately the number of persons with disabilities who were employed in the 1990s has been steadily decreasing, owing to special social and economic factors, and is now about 10 per cent of the total. This number reached its peak (75 per cent) in the mid-1970s. In 2001 the Government issued regulations in order to find proper solutions to this problem, establishing a compulsory quota of 2-4 per cent of workplaces for persons with disabilities. The law stipulates that any organization that does not or cannot meet this quota requirement has to pay into the budget of the Russian Federation a compulsory quota fee for each unemployed person with disabilities each month. In this case the state authorities of the Russian Federation take a decision as to the amount of this payment.

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## Slovakia

When it joins the European Union Slovakia will have to accept the principles of the various policies included in the European Union Treaty and in other rules of the EU. Therefore, Slovakia has endorsed the principles in the field of employment policy adopted at the Luxembourg Summit in December 1997.

These employment policy principles emphasize the use of social transfers for the benefit of employment expansion, including appropriate tax measures, measures in the field of education and measures in the field of social security contributions and other fields.

These measures should limit the de-motivation of the unemployed and encourage them to accept employment or to train for employment and thus to avoid their exclusion from the labour market and from the society.

### Legislation framework

The Constitution of Slovakia (article 38) stipulates that persons with disabilities classified as risk groups on the labour market are eligible for increased occupational health protection and special labour conditions as well as special protection in labour relations and assistance in preparation for occupation.

Nowadays the labour market policy of Slovakia is governed by Employment Act No. 387/1996 L.D., which came into effect on 1 January 1997 and which introduced changes in the employment of persons with moderate or severe disabilities. It also introduced changes in the obligations of employers with respect to the employment these persons.

The Act does not contain any discriminatory provisions regarding persons with moderate or severe disabilities. On the contrary, the Act pays special attention to disabled persons and their employment and provides them with various forms of support on the labour market.

Persons with moderate and severe disabilities are entitled to vocational rehabilitation to help them find or retain a suitable job.

From 1 January 2004, a new Employment Services Act will introduce changes in the employment of persons with disabilities.

The main changes concern:

- new definition of disability (wider definition);
- job assistant (state benefit in respect of the salary of a job assistant for employers who employ persons with disabilities);
- agencies for supported employment of people with disabilities (non-governmental, non-profit organizations, financial support for running supported employment activities);
- information centres for people with disabilities (information on technical adaptation of workplaces for employers and persons with disabilities).

Vocational rehabilitation includes consultation service, vocational guidance, vocational training and job instruction (where a person with a moderate or severe disability is not able to undergo or does not require vocational training).

Labour rehabilitation takes place in labour rehabilitation facilities or on the employers' premises.

Article 20 of the new Employment Services Act sets out the responsibilities of district labour offices in securing job opportunities for persons with moderate or severe disabilities. District labour offices are required to keep persons with moderate or severe disabilities on their files, to survey job vacancies in order to identify positions which are not suitable for such persons, and to adopt provisions with respect to the placement in suitable jobs of registered unemployed persons with moderate or severe disabilities and to review these provisions every six months.

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## Definition of disability

For the purposes of Act No. 387/1996 L.D of the National Council on Employment (hereinafter the Employment Act) and, specifically, of verifying the compulsory employment of disabled persons as required by article 31:

- (1) a person with a moderate disability (working ability) is a citizen who has been recognized as being entitled to a partial disability pension;
- (2) a person with a severe disability is a handicapped citizen who has been recognized as being entitled to a disability pension and as able to perform a job permanently only under entirely special conditions;
- (3) a citizen who has a limited possibility of systematic training for a job because of a long-term unfavourable state of health is also considered as a person with a moderate disability under article 31, paragraph 1. A citizen who is able to train for employment only under entirely special conditions because of a long-term unfavourable state of health condition is considered as a person with a severe disability under article 31, paragraph 2. The provisions of article 31, paragraphs 1 and 2 of the Employment Act relate to the choice of employment and vocational training.

Slovakia's definitions of persons with a moderate disability and persons with a severe disability conform to the International Labour Organization's Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).

A citizen proves his/her changed working ability on the basis of a decision or an opinion of the Social Insurance Office on his/her disablement or partial disablement. A person's recognition as partially disabled or disabled on the basis of a decision or an opinion of the Social Insurance Office depends on whether a proposal for recognition of partial disablement or disablement has been submitted by the relevant medical adviser or whether the person has made such a request. The opinion of a medical adviser serves the purpose of rendering a decision.

## Statistics

The unemployment trend among persons with disabilities has its specific features. The annual moderate increase in the number of registered unemployed persons with moderate or severe disabilities, their relatively constant share in the total number of unemployed (5-6 per cent), the relatively high number of persons with moderate and severe disabilities for each job vacancy and the growth of their share in long-term unemployment all indicate out that the position of these citizens in the labour market is significantly disadvantaged.

According to National Employment Office data, the employment rate was 57.2 per cent and the unemployment rate 14.31 per cent at 31 August 2003. The National Statistics Institution states that, at the end of March 2003 the labour offices had registered 27,500 employed persons with disabilities (1.3 per cent of all employed persons (2,130,800)). Among unemployed persons seeking employment there are 22,326 persons with disabilities, 5.4 per cent of the total number of registered unemployed (415,555).

The promotion of employment for persons with moderate or severe disabilities aims above all at the creation and retention of job positions in protected workshops and protected workplaces.

Jobs are created by employers or in the form of self-employment.

### New jobs for persons with moderate and severe disabilities created in 2001

Type of job	Number of jobs	Total contribution in thousands of SK	Average agreed contribution per job position in SK
Job position created by employer	1 960	301 057 499	153 601
Self-employment	157	22 686 600	144 501
Total	2 117	323 744 099	152 926

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Of the 2,177 jobs created in 2001, 2,019 were for persons with moderate disabilities and 98 for persons with severe disabilities. Some 2,687 new jobs were supported in protected workshops and workplaces in 2002. The average contribution per job amounted to SK28,577.

## **Vocational rehabilitation and training**

Citizens with moderate and severe disabilities are provided with labour rehabilitation to help them find or retain a suitable job. This includes vocational guidance, guidance for occupational qualifications, training, preparation for a job, the services of a labour exchange agency and the creation of suitable conditions for job performance. Labour rehabilitation can be carried out on the employer's premises or in facilities designed for labour rehabilitation.

Guidance in respect of occupational qualifications is given to persons with moderate and severe disabilities in labour rehabilitation facilities; vocational guidance concerning occupational qualifications is provided at district labour exchange offices, which inform citizens of their rights and obligations during labour rehabilitation; provide expert advice and information on training possibilities according to their state of health and assist them in the choice of a suitable job.

Preparation for vocational qualifications of citizens with moderate and severe disabilities includes vocational training and job instruction (for citizens who are not able to undergo vocational training or do not require it), which imparts the necessary knowledge and skills for performing a job. Job instruction ends with a final examination.

Job instruction and preparation for work are carried out at workplaces which are adapted to the state of health of persons with moderate and severe disabilities, in protected workshops, protected workplaces, re-qualification facilities, educational facilities of civic associations and labour rehabilitation facilities.

Unemployed persons seeking suitable employment can apply to the labour agency at the district labour office in the district where they have their permanent residence. A person searching for a job can ask for information on job opportunities at any district labour office. District labour offices act as employment agencies free of charge.

In order to facilitate the search for suitable employment for registered unemployed persons in terms of their state of health, medical assessments have been undertaken since 1 December 1999 to determine whether the state of health of the registered unemployed is such that they are able to carry out the activities of a proposed job or to participate in re-qualification and labour rehabilitation through the district labour office without unfavourable repercussions on their health.

Refusal to accept a suitable job or to participate in re-qualification or labour rehabilitation for reasons of health is sufficient justification for a medical assessment by the district labour office.

The state of health is also reviewed where an independent gainful activity is terminated for reasons of health after a contribution intended for self-employment or for equipment necessary for carrying out an independent gainful activity had been granted to a person with a moderate or severe disability.

Disability is often accompanied by a low level of qualifications and results in a double disadvantage. Many companies now employ fewer of these citizens because there are plenty of healthy employees. Other reasons for loss of employment, apart from organizational changes, include the higher demands placed on employees by an accumulation of tasks, and the failure to adapt technical and technological devices to the needs of employees with moderate and severe disabilities.

## **Employment of persons with disabilities**

The following forms of financial support are intended for the employment of citizens with moderate and severe disabilities in Slovakia.

The district labour office can grant a legal entity or natural person that employs a person with a moderate or severe disability, or transfers him/her to another job after appropriate training, a contribution of SK1,000 where the in-service training does not exceed four weeks, SK2,000 where the in-service training does not exceed six weeks, and SK3,000 where the training does not exceed eight weeks. These contributions are granted on condition that a written agreement has been



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concluded in advance with the district labour office which recommended that the disabled person be employed in a suitable job or transferred to other work.

The district labour office can pay a legal entity or natural person a grant for establishing and operating a protected workshop or a protected workplace. According to the number of job positions, this grant can amount to 100 per cent of the estimated costs connected with the creation of a job position in a protected workshop or at a protected workplace, up to a maximum of SK250,000 per job for a citizen with a severe disability and SK200,000 per job for a citizen with a moderate disability. Jobs at protected workshops or protected workplaces in respect of which the district labour office pays a grant must be maintained for at least three years.

The district labour office can, on the basis of a written application including a preliminary calculation, offer a grant to any person with a moderate or severe disability who starts to operate or carry out an independent gainful activity. The grant is for 100 per cent of the estimated cost of the necessary equipment for carrying out this activity, up to a maximum of SK250,000 (6,250 euros) in the case of a person with a severe disability, and SK200,000 (5,000 euros) in the case of a person with a moderate disability. A grant is paid on condition that the disabled person performs the independent gainful activity for at least three years.

The district labour office also pays grants for partial payment of the running costs of a protected workshop or protected workplace, up to SK40,000 (1,000 euros) a year per disabled person, to any legal entities or natural persons that apply for it in writing no later than 31 March following the calendar year for which they apply the payment of their running costs.

According to the Employment Act, an employer who employs persons with disabilities is a natural person or legal entity having its head office or the seat of an organizational unit on the territory of Slovakia and who employs at least 20 employees.

An employer is liable:

- to ensure for persons with disabilities suitable conditions for job performance;
- to carry out in-service training and to take special care to enhance their skills during employment;
- to keep these citizens on file;
- to ensure that at least 3 per cent of the total number of employees are disabled persons (quota system), including 0.2 per cent of persons with severe disabilities.

This requirement concerns every employer who employs at least 20 employees. The district labour office keeps on file unemployed persons with disabilities who are looking for jobs. Non-observance or non-fulfilment of this obligation has financial implications for employers.

The obligation to employ persons with disabilities does not concern established churches and religious communities, medical facilities, the Ministry of Defence, legal persons under the authority of the Ministry of Defence, the armed forces, armed security services or fire brigades.

Employers often make inquiries as to whether they have to observe the obligation to employ a compulsory number of citizens with disabilities if, after applying to a district labour office for an employee with a disability and stating all the requirements which their future employee has to satisfy, the district labour office is unable to find a suitable disabled employee. In this connection the law stipulates that an employer is obliged to observe a compulsory share of persons with disabilities only where a district labour office has on file a person with a disability who meets the requirements set by an employer. It is incumbent on the employer only to ensure suitable conditions for performance of the job by a disabled person, and to carry out in-service training and preparation for work. Special care has to be paid to improving the person's skills during employment. Grants for in-service training (under article 103) and adapting a vacancy to the state of health of a disabled person (under article 107) are also available.

As from 1 December 1999, an employer may fulfil his obligation to employ a compulsory share of persons with disabilities by placing an order with a protected workshop or protected workplace. An order placed with a protected workshop or protected workplace must correspond to at least 1,400 hours worked per calendar year or 120 hours worked per calendar month, in respect of each disabled person.

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District labour offices are authorized to check in the course of the year whether the 3 per cent share of citizens with moderate disabilities or the 0.2 per cent share of citizens with severe disabilities has been met or not because under Employment Act No. 387/1996 L.D. the share has to be calculated from the total number of employees over the whole calendar year. In the course of the year they can only check if there is an assumption that the obligation stipulated in the law is being observed. They can make an estimate of the 3 per cent share and the 0.2 per cent share in the total number of employees since the beginning of the year or the number of employees at the end of a relevant period. Employers can make these estimates for their own purposes in the same way.

The district labour offices can also make use of the remaining time till the end of the year to help employers to fulfil their obligation, for example by helping registered unemployed citizens with disabilities to adapt their skills to the requirements of their employer by means of their re-qualification. As far as financial resources permit, the creation of new jobs and adaptation of existing jobs to the state of health of citizens with disabilities should be supported. It is also necessary to monitor the number of persons with disabilities employed by individual employers.

With effect from 1 January 2000, rates of taxation and non-taxable components of income have been adjusted in Slovakia. The tax burden has been reduced to below that of the year 1993. This reduction was applied partially to the tax year 2001 and is now applied in full. Within the framework of these adjustments the non-taxable part of the income has been increased from SK36,000 to SK48,000 (1,200 euros) for taxpayers registered as "severely disabled".

Special protection for employed persons with disabilities is provided for in the Labour Code. Employers cannot dismiss disabled persons without labour office agreement.

## Other relevant information

People with disabilities face a lot of barriers in their everyday lives that are created by society. For this reason, even if a citizen with a disability succeeds in obtaining a job it is necessary to help him/her to overcome or reduce these barriers to employment. Accordingly, various forms of compensation are provided for in Social Assistance Act No. 195/1988 L.D. which came into effect on 1 July 1999. The aim of these provisions is to create conditions for citizens with disabilities that are comparable to those of their fellow citizens, so that they can assert themselves in their work, take on responsibility and fulfil their role in family and society.

Compensation is provided through the Ministry of Labour, Social Affairs and Family in the form of social services and benefits and is aimed at the following fields:

- mobility: it helps disabled citizens to overcome barriers in their flat or house and in the outside environment (on the way to work, school, shopping, seeing relatives and friends, attending cultural and social events);
- communication (it helps them to obtain various kinds of information and ensures direct contact between disabled citizens and other persons);
- provision for daily living activities and household help (e.g. toiletry, clothing, cooking, eating, cleaning, shopping);
- compensation for various extra costs connected with a severe disability (e.g. for dietary food, for the operation of some aids or a motor car, for wear and tear of clothes or furniture, for feeding and taking care of a dog with special training).

For the purposes of compensation for the social consequences of a severe disability, a team of specialists assesses persons with severe disabilities individually and collectively. They are not only assessed from the medical point of view; social criteria, such as personal qualifications, family environment and the whole social and living environment influencing their integration, are also taken into account. Disabled citizens play an active role in this process; this enables their own ideas regarding the solution to their social situation to be taken into account and at the same time creates the necessary conditions for the realization of their human rights and freedoms. The assessment of the situation of a disabled person should result in a proposal for the optimum form of compensation.

Among the progressive forms of social aid for disabled people is a direct personal assistance benefit, which Slovakia was the first post-socialist country to include in its legislation. The benefit is granted to citizens with a severe disability between the ages of six and 65 who are dependent on other persons in their everyday activities. It is a direct payment to be used for the hiring of a personal assistant under a contract governed by the Civil Code). The maximum amount of the

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benefit is US\$655 (depending on how many hours of assistance the person needs); the personal assistant must be a capable person of at least 18 years. Certain relatives (e.g. husband/wife, children, parents, brothers and sisters, grandparents, grandsons and granddaughters) cannot be providers of such personal assistance.

The essential aim of personal assistance is to support the independence and self-reliance of disabled persons so that they can make their own decisions, plan their own activities and lead a normal life, and to release relatives and friends from the heavy burden of everyday care.

A new feature of social assistance in Slovakia is the concept of integrated transport, i.e. “transport for all” provided by common taxi services (for the moment in two towns) using cars capable of transporting people in wheelchairs. Such transport is flexible, it does not stigmatize disabled people (as e.g. special transport) and does not exclude them from society. A financial contribution (US\$52 per month) is granted for such transport.

Non-governmental organizations play an important role in providing various kinds of social services (e.g. personal assistance agencies, supported employment agencies).

Disabled citizens have formed various organizations (some 350 such organizations are now active in Slovakia) represented by the Coordination Committee, which acts as an advisory body of the Government on issues concerning the disabled. It deals not only with concepts and legislation but also with problems arising in everyday life.

*Lýdia Brichtová, Ministry of Labour, Social Affairs and Family, Slovakia*

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## Serbia and Montenegro <sup>1</sup>

### Laws and regulations governing the status, rights and benefits of disabled persons

The existence of a regulatory framework on the status and rights of disabled persons is a very important issue in every country. In the current political life of Serbia and Montenegro there is a trend towards regulating all rights specific to disabled persons along the lines of the relevant international documents and positive law of developed countries. The role of the state authorities is vital in tackling the issue of their rights and benefits. Only through governmental institutions will it be possible to pursue certain policies directed towards improving living conditions of disabled persons. The following authorities in Serbia and Montenegro are competent to regulate issues of concern to disabled persons: in the field of education, the Ministry of Education and Sports; in the field of health care, the Ministry of Health; in the field of social welfare, the Ministry of Welfare; in the field of urban planning and construction (i.e. accessibility of all public institutions and free movement of the disabled), the Ministry of Construction and Urban Planning; in the field of professional rehabilitation and employment of the disabled, the Ministry of Labour and Employment.

The Government of Serbia has set up a Council for Disability Issues to coordinate the competent institutions addressing the problems of disabled persons. The members of the council are: the representatives of associations and organizations of the disabled, and the Government ministers and their deputies or assistants.

At the higher state level the Council ensures that all laws enacted in the country, whether general or specific to disabled persons, are in compliance with the international legal documents governing the rights of disabled persons (Universal Declaration of Human Rights, United Nations Standard Rules on equal opportunities for disabled persons, Convention on the Rights of the Child, ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), etc.)

The system of social insurance in Serbia is dealt with in a number of laws covering pension and disability insurance, medical insurance and unemployment insurance.

(1) Pensions and Disability Insurance Act (*Official Gazette* No. 34/2003)

Insurance is obligatory for salaried workers, the self-employed and farmers. Apart from obligatory insurance, individuals may contract voluntary insurance of a wider scope or other types of entitlements stipulated in this Act.

Entitlements in respect of disability or physical defects concern five categories of persons, as follows: persons in temporary employment through youth cooperatives who are younger than 26, provided they are regular students; persons attending advanced training, re-training or skill upgrading, provided they were referred by an employment agency; pupils and students attending obligatory manufacturing practice, vocational practice or practical teaching; persons serving their prison term while working in a commercial prison unit; volunteers under contract.

The rights under pension and disability insurance are as follows: old age pension; disability pension in case of disability; family pension in case of death and compensation of funeral costs; in case of physical defects caused by an accident at work or occupational disease, the right to pecuniary compensation for physical defect.

(2) Rights of disabled veterans and conditions for their exercise

The basic rights of disabled veterans, their family members and members of the families of fallen combatants are: personal disability pension; allowance for a helping hand; orthopaedic allowance; medical care and other public health entitlements; prosthetic and other aids; unemployment compensation; spa and climatic resort vacation; free or privileged transportation; right to purchase a motor vehicle at a reduced price.

<sup>1</sup> Compiled on behalf of the Ministry of Labour and Employment of the Republic of Serbia.

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The extended protection of this group, primarily of a welfare character, is within the competence of and financed by the republics, while the additional protection is provided by local self-governments.

The laws regulating the rights of disabled veterans and civilian war casualties are the Act on the basic rights of combatants, war disabled veterans and families of fallen combatants (*Official Gazette* No. 24/98), and the Act on the rights of veterans, disabled veterans and their family members (*Official Gazette* No. 54/89).

(3) Medical care of the disabled and other insured persons

Provided for under the insurance scheme. In its initial stage such insurance was obligatory only for workers, but nowadays it covers all walks of life. The rights under medical coverage are: health protection; compensation of earning during the temporary incapacitation; compensation for travel expenses relating to health protection; compensation of funeral expenses paid to the person who arranges for burial of the deceased who was insured.

Medical insurance rights are regulated by the Health Insurance Act (*Official Gazette* No. 25/96).

(4) Legal documents governing the right to education of disabled persons

The legislation governing the right to education in the Republic of Serbia does not deal specifically with the establishment of a system of integrated education of at least some categories of disabled children along with other. There are no provisions stipulating how regular schools could satisfy the needs of disabled children, or creating a friendly environment for disabled children attending school along with children without disability.

The laws regulating the education issue are: the Basic Principles of Education Act; the Primary School Act of the Republic of Serbia; the Secondary School Act of the Republic of Serbia; the University Act of in the Republic of Serbia.

Part 7 of the Law on Elementary School governs the elementary education and upbringing of retarded and disabled pupils. A disabled or retarded child is enrolled on the basis of a decision stipulating the type and degree of retardation.

They attend special schools. The type and degree of retardation is determined by a medical commission. This law has followed the medical approach to disability, which is suggested by the term "retarded child".

There are 52 schools in Serbia involved in the education and upbringing of retarded children, 36 for pre-school and elementary-age children and 25 secondary schools. Sixteen schools have separate classes for disabled children. Most of these schools have day-care schedules, and three schools have special groups for autistic children.

Pupils with impaired hearing attend eight special schools, and those with impaired sight two schools in Belgrade and one in Pec (the school is temporarily closed because it is located in Kosovo and Metohija).

Hospitalized children, those treated at home and children with physical handicap are educated in two elementary schools.

(5) Social welfare for disabled persons

The Act on social welfare and social security of citizens is a primary regulation in this area. To understand the position of a disabled person, as a potential beneficiary of individual rights in the system of social welfare, we shall classify them according to the rights available to all and hence to disabled persons, and the rights that, in view of their character, can be exercised by disabled persons only. The first group of rights covers the right to material support, the right to accommodation in a welfare institution, the right to placement in a foster family, house help, day care, and one-step help.

The second group of rights (available to the disabled persons only) covers an allowance for help and care by a third person, and assistance and capacity building for work.

The right to assistance and capacity building for work pertains to retarded children and young and adult disabled persons. That right, in the system of social welfare, is the key to enabling social participation of disabled persons, since it treats them not as incapacitated individuals, but rather as persons deprived of the possibility of working.

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This right is exercised through referral to training courses, material support, compensation for accommodation costs, compensation for travelling costs, payment of a training fee.

(6) Urban planning and construction regulations

The Spatial Planning Act stipulates the conditions for planning and designing facilities to ease the movement of children, the elderly and handicapped and disabled persons. The Ministry approved the rules setting out those conditions. This is the first document ever of this type, and it was enacted in Serbia in 1997.

(7) Election provisions concerning the disabled persons

Due to their specific needs, disabled persons have a special place in election provisions, which are embodied in the Act on election of members to Parliament, and the Local Self-government Act.

Normally, voting takes place at polling stations. However, disabled persons in wheelchairs or with orthopaedic aids sometimes cannot reach the polling stations, and it is regrettable that there are no regulations providing for an obligation to locate the polling stations in areas accessible to disabled persons.

There are direct legal provisions relating to the voting of disabled persons, if they are incapable of casting their vote in person. Two possibilities are available: to vote by proxy, or to assign members of electoral committee to visit the disabled persons at home.

### ***Legal documents regulating the rights of disabled persons in labour relations***

The following laws are relevant: the Labour Act of the Republic of Serbia, the Act on training and employment of disabled persons (of 1996), the Act on safety at work of the Republic of Serbia, the Rules on the utilization of funds of the National Employment Office, and the Rules on the exercise of rights of unemployed persons.

The Labour Act regulates, in line with international Conventions, the obligations, rights and responsibilities in labour relations. Employees are guaranteed the right to appropriate earnings, safety at work, health care and protection of personal integrity.

Disabled persons in employment are guaranteed special protection (article 9, paragraph 4). Article 12 prohibits any discrimination against a person seeking a job. The Act stipulates the right of the parents of a disabled child to sick leave, after parental and childcare leave, or to part-time work up to the fifth year of age of the child.

Section 7, Chapter V of the Act provides for protection of disabled persons, more specifically persons affected by occupational disability. The employer is obliged to ensure conditions for smooth work for a disabled person, in line with the description of jobs that such a person can perform contained in the decision on the disability of the person concerned. If the employee refuses such a job, the employer is entitled to terminate the labour contract.

The Act on capacity building for work and employment of the disabled regulates the employment and training of disabled and retarded persons.

The capacity building and employment of the disabled in terms of that law cover: retarded children and youth who cannot get a proper education and upbringing under the curriculum for retarded pupils; retarded children and youth receiving an education and upbringing under a curriculum and programme intended for the retarded; industrial disabled persons who under the pension and disability insurance regulations have access to employment, re-training or additional training under the general conditions; a disabled person with a preserved work ability, who does not have access to education and employment under the general conditions.

It is possible to found an enterprise for the training and employment of the disabled, provided such enterprises shall have a minimum of 40 per cent of disabled persons among the total employees, adequate premises, adequate technical and other equipment for the training and work of the disabled, and enough professionals for capacity building of the disabled in terms of the number of the disabled and the type of their disability.

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Such an enterprise must have its plan for capacity building of the disabled approved by the Ministry of Health and the Ministry of Education and Sports. The Ministry of Labour and Employment provides 50 per cent of the average wage bill every month for capacity building and payment of wages to the disabled employed in such enterprises.

A new law governing these matters is currently being drafted.

The Act on Safety at Work contains no specific provisions regulating the position of the disabled employees, but a wider interpretation of the provisions in place could be extended to the disabled.

The Rules on the utilization of funds of the National Employment Office created an institutional framework for the enhanced employment of the disabled persons. In practice, the application of the provisions of the Rules on the employment of disabled persons helps to reduce the high unemployment rate among the population. However, it was observed that quite a few of the disabled who obtain employment under the programme of the National Office take the disability pension after the expiry of the term of employment with the employer who receives funds from the National Office.

The Rules on the exercise of rights of unemployed persons regulate the following matters: information about employment opportunities and conditions, mediation in employment, professional orientation, preparation for employment, financial compensation and pension and disability insurance, and allowances during the period of professional training.

### ***New law on employment of the disabled***

The Ministry of Labour and Employment, in cooperation with all relevant associations and organizations of the disabled, is drafting a new Act on Employment of Disabled Persons. The objectives of the new Act are to increase employment among disabled persons, to provide for adequate conditions for the disabled to exercise their right to integration and employment, and to bring disability employment provisions into line with international legal regulations and the best practice of the countries implementing such legal provisions.

This Act, which is the first law of its type in Serbia, focuses on *active* employment measures. It contains a detailed definition of the conditions for creating enterprises for the training and employment of disabled persons. It prohibits discrimination against disabled persons seeking a job and provides for the active participation of the most influential organizations of disabled persons. It also provides for the establishment of a Fund for the professional training and employment of the disabled, as well as a National Centre for Professional Rehabilitation of Disabled Persons.

The active employment policy laid down in the Act covers the following points:

- employment of disabled persons is an obligation of each employer, according to a quota system;
- employers are entitled to a refund on the earnings of disabled persons by the Ministry of Labour and Employment;
- special facilities are provided for employers who recruit disabled persons with a serious impairment;
- employers who employ between 20 and 50 people under a permanent contract are obliged to employ at least one disabled person with adequate qualifications for the job;
- employers with more than 50 persons are obliged to employ 3 per cent of disabled persons out of the total number of employees;
- employers who fail to employ a disabled person are liable to pay compensation of 50 per cent of the average salary, according to the latest statistics.

Regarding conditions at work, employers are obliged to provide proper conditions for the work of disabled persons, which do not aggravate their state of health and allow a smooth flow of work. Employers are also required to implement the programme of vocational rehabilitation of the disabled persons, including vocational guidance, vocational training and adaptation. The new Act will also regulate work hours, annual leave and cases of termination of labour contracts with disabled persons.

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The plans of the Ministry of Labour and Employment of the Republic of Serbia are:

- to form a division for the professional rehabilitation and employment of disabled persons (this was implemented in 2003);
- to promulgate the Act on Employment of Disabled Persons;
- to start the project for the National Centre for capacity building and vocational guidance of disabled persons;
- to initiate within the project “Serbia, a nice country” the elimination of architectural barriers in buildings of public interest;
- to define the status of enterprises for the training and employment of disabled persons (in private or state ownership);
- to provide funds for capacity building of disabled persons (establishment of an Employment Fund);
- to continue the active participation of organizations and associations of disabled persons in identifying and progressively resolving problems;
- to promote equal opportunities for disabled persons in all spheres of social life, in keeping with European standards (compliance with the ILO Conventions tending to establish equal standards in this sphere).

## **Definition of disability**

A disabled person (as defined in the draft Act on Employment of Disabled Persons) is a person with a congenital or acquired, permanent or partial physical or mental impairment or impairment of the senses, as determined by the competent authority, whose chances of finding and retaining employment in the open labour market under the generally prevailing criteria are thereby diminished.

A disabled veteran (in terms of the rights of combatants, disabled veterans and their family members) are persons who were wounded or who fell ill during the war operations or while engaged in active service and other duties and responsibilities related to war.

A disabled industrial worker (under the Pensions and Disability Insurance Act of 1966, in force until 1 April 2003 but still applicable to persons who become disabled) is a person who can perform his job only for half the regular working hours due to illness or other health impairment (disability Category II).

A disabled person in Category III is a person who, due to illness or injury at work, is incapable of performing his full-time obligations but is capable of another adequate full-time job.

A disabled person in Category I (under the new Pensions and Disability Insurance Act of 2 April 2003 defined as disability only) is a person who is completely deprived of his/her ability to work due to changes in his/her state of health caused by an accident at work or occupational disease, an accident outside the workplace or an illness which cannot be alleviated by treatment or medical rehabilitation.

A disabled child (definition in the Decision on criteria and classification of retarded children) is a child with a serious and permanent disorder or impairment of the locomotive system, with serious and permanent physical deformities, serious muscle illness and impairments (cerebral palsy, muscle dystrophy and multiple sclerosis) and with serious forms of chronic diseases and permanent health impairment. A child with multiple disorders who cannot be classified according to the prevailing criteria is categorized as a child with multiple development retardation. A disabled child can also be a child with complete or partial sight impairment or complete or partial hearing impairment.

A decision regarding the disability of disabled veterans, peacetime disabled veterans and civilian war casualties is dependent on the findings and opinion of the competent military medical commission. The commission is composed of medical practitioners and specialists each of whom issues an opinion. On the basis of the findings of the medical commission a decision on the disabled person's disability is issued by the competent local self-government authority (Welfare Department for Veterans and Disabled Veterans).



Depending on the degree of disability, the disabled veterans are classified in ten groups of veteran disability: 100 per cent disability, when the aid of another person is needed in daily life, 100 per cent disability where there is no need of help from another person, 90 per cent disability, 80 per cent disability, 70 per cent disability, 60 per cent disability, 50 per cent disability, 40 per cent disability, 30 per cent disability, and 20 per cent disability.

For industrially disabled persons in Categories II and III the disability decisions are based on the proposal of the competent attending general practitioner, who bases the proposal on diagnosis of specialists when the person is examined by the medical commission of the Pensions and Disability Insurance Fund. That commission issues a final ruling on the disability, after which the legal department of the Pensions and Disability Insurance Fund for the person's place of residence issues its decision on the disability.

Under the new Pension and Disability Insurance Act a person is referred to the medical commission in the Pensions and Disability Insurance Fund by the district medical commission. If there is no such proposal, a person may appear on his/her own initiative to be examined and evaluated for disability, but at his own cost. If the expert findings confirm the loss of capacity for work, i.e. the disability, the decision on disability is issued by the competent Pension and Disability Insurance Fund. If found to be disabled, the person who paid the cost of disability evaluation is refunded.

A decision on the disability of children is based on the proposal of the medical commission of the competent Outpatient Centre at the place of residence. Each member of the medical commission examines the child separately; previous examinations' findings and aptitude tests are also examined. The commission may request an additional examination, analyses and data from the competent health institutions. The decision is issued by the legal department of the competent Secretariat of Education based on the medical findings presented.

## Statistics

### Number of registered unemployed disabled persons in the Republic of Serbia

Type of disability	Registered unemployed disabled persons	Percentage of total registered unemployed disabled persons on the labour market
Disabled veterans	2 257	11.69
Peacetime ex-service disabled men	118	0.6
Civilian war casualties	1 861	9.7
Categorized youth	1 193	6.2
Other categorized disabled persons	225	1.2
Industrially disabled persons	13 182	68.29
Other uncategorized disabled persons	446	2.5
TOTAL	19 302	2.1 (of the total number of unemployed)

In keeping with the Act on Capacity Building and Employment of Disabled Persons, 75 enterprises have been registered in Serbia for the employment and training of the disabled, and these have some 4,000 disabled persons in employment. Most of them are engaged in textiles, metal processing, furniture and timber product manufacturing, office equipment and services. The proportion of disabled in the total number of employees in those enterprises is 44.6 per cent.

## Vocational rehabilitation and employment of disabled persons

The vocational rehabilitation of disabled persons is designed to empower the disabled to use certain skills and to start work for the first time or to re-enter the labour force.

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Vocational rehabilitation can take the form of additional training (new technological knowledge and skills for work at a higher level of education within certain occupation or groups of occupations), retraining (change of former occupation, providing new theoretical and practical knowledge and skills for work at the same or lower level of education), occupational information (updated, systematic and objective news for the prevention of an erroneous choice of occupation), vocational counselling (for those who choose psychological testing and individual counselling), and job selection (matching psychophysical characteristics of individuals to job requirements).

Vocational guidance is carried out within regular programmes of the National Employment Office on the principle of positive discrimination. However, the fact remains that the employment of disabled persons is still unsatisfactory; everyone undergoes the same regular training programmes, and there are no special courses for disabled persons or special programmes to apply theoretical knowledge acquired during schooling in practice.

Training for employment for the disabled persons is carried out in enterprises for in-service training and employment of disabled persons.

The new Act on Employment of Disabled Persons anticipates the establishment of a National Centre for the Employment of Disabled Persons. This is the first project of its type in Serbia. Training courses will be organized for disabled persons at the Centre along with ancillary services, such as proactive seminars, workshops, courses, assistance to employers, upgrading of experts, monitoring and evaluation.

The success of the Centre should result in faster and better-quality integration of disabled persons in all walks of life.

Disabled persons are mainly employed as a result of employment programmes (active measures). Apart from the administration of investment programmes for new jobs or adaptation of existing jobs to the capabilities of disabled persons, participation in the earnings of the disabled amounts to 80 per cent of the average wage in the Republic.

The promotion of the rights of unemployed persons, other than the disabled, is aimed at persons who face particular difficulty in finding employment. The authorized health institution under contract to the National Employment Office performs an evaluation of such person's capabilities. In order to promote the employment of disabled persons, three times more funds are allocated to active measures than are earmarked for the employment of regularly registered unemployed persons (non-disabled).

It is still difficult to find a job, for a variety of reasons: bias against the working potential of disabled persons, socio-economic circumstances, technological and organizational changes in a transition economy, lack of practical skills, architectural barriers, lack of motivation (unemployment compensation as a passive measure of protection is often higher than or equal to wages).

The fundamental principle is that as many disabled persons should find jobs in the open market as possible. The readiness of potential employers to help such persons adapt to a new working environment and re-enter the labour market is evident. There is close cooperation with the institutions for social and medical rehabilitation, special schools, employers' organizations and associations of disabled persons.

For persons who cannot find jobs on the open market, jobs can be found in enterprises for the vocational training and employment of disabled persons.

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## Slovenia

### Legislative framework and legal trends

The Constitution of the Republic of Slovenia of 1991 defines Slovenia as a state governed by the rule of law and as a social state. This principle is implemented through the system of social security, social insurance and by guaranteeing the special rights of individual groups of the population. The rights of people with disabilities are in particular enshrined in the Constitution in such a way that they are guaranteed security and training for work. Physically and mentally disabled children and other seriously disabled persons have the right to education and training for an active life in society. War veterans and civilian victims of war are guaranteed special protection in compliance with the law.

The Constitution of the Republic of Slovenia regulates the protection of human rights and basic freedoms and guarantees equality before the law. Article 14 stipulates that everyone in Slovenia is guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material standing, birth, education, social status or any other personal circumstance.

The Assembly of the Republic of Slovenia adopted a strategy of development of disability care in 1991, in which the global aims are defined as follows:

- an independent life for people with disabilities (mainly with measures for overcoming physical dependence, which include the arrangement of living areas, removal of obstructions in the man-made environment, assistance in everyday-life activities, arranging adapted transport, communication and providing information and influencing public opinion);
- self-organization of persons with disabilities (which covers organizations of disabled people and other forms of interest associations concerned with them, employment programmes, people with disabilities in families and in other basic social communities, inclusion in political decision-making and leisure time);
- socially organized assistance for people with disabilities (which embraces prevention of disability, health care, rehabilitation, technical aids, institutional care, financial benefits and economic benefits and voluntary work);
- education and training of children and young persons with special needs.

The proposers of the regulations which were adopted in 1991 followed the basic aims of the development strategy and recommendations of international organizations.

The aims set are realized by the legal regulation of the care of disabled people, ensuring and allocating funds, functioning of public administration, education of professional staff and research. The latter is regulated or is thematically included in more than 60 statutory and implementing acts in the areas of social security, health care, up-bringing and education, employment and training for work, disability insurance, accessibility of the man-made environment, information and communication, special relief and exemptions in the area of tax and customs legislation. Competencies are divided among a number of ministries, in addition to which tasks are carried out by numerous occupational organizations. In order to facilitate better interlinkage and harmonization, the Government of the Republic of Slovenia founded in 1996 an expert advisory Council for the Disabled. A central body of the Slovenian Parliament, the Committee for Health, Labour, the Family and Disabled, deals with questions covering the spheres of work of the Ministry of Health and the Ministry of Labour, Family and Social Affairs and, within this framework, devotes special attention to the problems of disabled people, monitors and studies their situation and proposes measures for improving their position in society.

Organizations of disabled people are an important co-actor with the state in shaping disability policies and implementing special social programmes for disabled people. These special social programmes are a supplement to the social security activities which the public service performs in the country. The Government has therefore prepared a Disability Organizations Act according to their special status. A Foundation for Financing Disability and Humanitarian Organizations has been set up to finance social programmes carried out by organizations.

## Definition of disability

The definition of disability is the basis for determining key categories of persons with disabilities and the extent of measures and rights relating to various areas of the life of persons with disabilities. The concept of disability is variously defined in respect of employment and rehabilitation.

In the case of disabled workers under the Pension and Disability Insurance Act and people with disabilities under the Training and Employment of Disabled Persons Act, it means the assessed capacity for work. In the case of war disabled, disability means the percentage of individual organs or organ systems that are affected.

Assessment under the Training and Employment of Disabled Persons Act enables disabled persons to exercise rights to vocational training and employment. The assessment of general working capacity is essential.

The Pension and Disability Insurance Act of 2000 classifies insurees who have become disabled in a number of categories of disablement: general, vocational, and with reduced and limited capacities for work.

War invalids have a special system of classification of disability according to the level of impairment of health, in the framework of the War Invalids Act. The Act also determines the rights of war invalids to vocational rehabilitation.

In 2001, the Government founded a national working group on the introduction of the International Classification, which will facilitate the training of experts and their cooperation with European centres that use this classification. A new assessment system, based on the International Classification, will also be incorporated into the new Act on Rehabilitation and Employment for the Disabled.

## Statistics

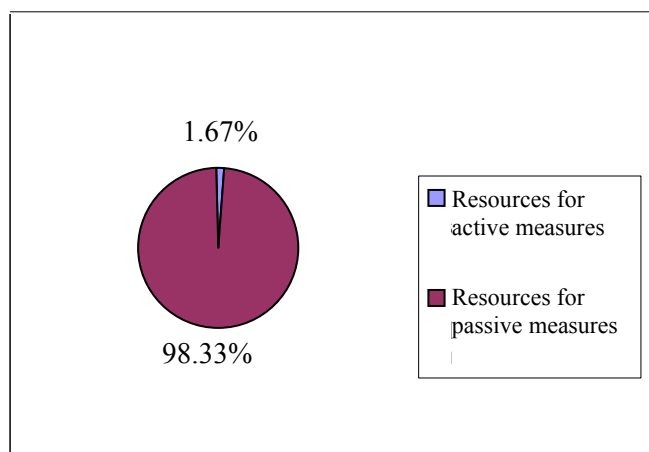
### Situation of disabled persons in Slovenia (total population: 1,990,272; active population: 781,932)

		No. of persons with disabilities	Proportion
1	All persons with disabilities (2+3+4)	168 755	8.5% of the population
2	Retired (without regular retirement pensions)	98 000	4.9% of the population
3	Working	In ordinary environment In companies employing persons with disabilities	Total: 28 967 3.7% of active population
4	Registered with employment services (31 December 2002)	All unemployed	20 195
5	All disabled on the labour market (3+4)	43 460	–
6	Unemployed	20 195	46.46% of all disabled on the labour market
	Employed on the basis of inclusion in ALMP in 2002	949	38% of all included in ALMP
	Preparation and education programmes	576	20.2%
	Rehabilitation programmes	1 578	55.4%
	Public works	344	12.1%
	New working posts	75	2.6%
	Wages subsidies for ordinary environment	264	9.3%
	Adaptations of environment and devices	11	0.4%
	Subsidies for companies employing disabled persons	6 156	–

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Comparing active/passive resources, too much is still spent on passive measures (incomes, pensions) – 98.33 per cent as opposed to just 1.67 per cent on active programmes (services, education, rehabilitation).

### Proportion of active/passive measures in 2002



### Vocational rehabilitation of persons with disabilities

The basic acts in the area of training and employment are: the Training and Employment of Disabled Persons Act, which operates through active labour market policy measures that are intended for disabled people and employers who employ them and are carried out by the Employment Service; and the Pension and Disability Insurance Act.

The occupational rehabilitation programme (resources from the Employment Service) is designed to create employment opportunities and to find the solution to special needs and obstacles regarding employment. Individual employment-rehabilitation plans are prepared for the employment of persons faced with complex barriers to employment. Programmes of vocational rehabilitation contain the following programme groups: assessment of working capacities, pre-vocational and psycho-social rehabilitation, work training, guidance and monitoring, work and social inclusion.

In the year 2002 1,578 persons with disabilities received vocational rehabilitation.

In 2003 Slovenia developed additional employment rehabilitation programmes with 13 services:

- information and motivation;
- assessment;
- psycho-social rehabilitation;
- selection of occupational goal;
- development of social skills;
- finding the proper job;
- analysis of workplace and environment;
- plan of adaptation of the workplace;
- plan of devices needed;
- training;
- attending the training process;
- attending the employment process;
- simultaneous assessment of the rehabilitation process.

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The programme is based on the support of team experts (supported employment model). Persons with disabilities can be included in all the services they may need.

The Pension and Disability Insurance Act further entitles disabled workers to certain rights on the basis of their disability, including a disability pension, occupational rehabilitation, transfer to another workplace, and part-time work.

Vocational rehabilitation is an integral process in which an insured person is provided with the professional, physical and psycho-social training required for work in another occupation or another job, so that he can be appropriately reassigned and reintegrated into the work environment, or trained for the same occupation or job by suitable adaptation of his workplace with appropriate technical aids.

If occupational rehabilitation, employment or transfer to another workplace demands the adaptation of the working environment and devices, the Pension and Disability Institute covers the costs. The Institute can also provide resources for the promotion of the employment of unemployed disabled workers.

Young people are entitled to special or additional vocational training and vocational guidance, which usually takes place in specialized institutions (for the deaf, blind, those with impaired mobility and mentally disabled). In some cases, vocational education departments are organized within regular vocational schools (metal and wood trades).

## **Employment of persons with disabilities**

The disability care development strategy adopted in 1991 stresses employment as one of the factors which has a particular influence on the economic and social conditions and other life opportunities of persons with disabilities. According to the concept, activating their own economic potential is one of the central interests of disabled persons.

The essential characteristic of Slovenia's system of employment of disabled persons in an integrated working environment is the status of disabled person, which is the basis for the later exercise of rights. An employment contract may be concluded with a disabled person without announcement or public notification of vacant positions. In such a case, on the basis of a report of a vacant employment position (without prior public announcement), the employment service directs the disabled person to the organization or employer, as determined in the Employment Act. In concluding employment relations, an unemployed disabled person has priority. A special law applies for employment as a telephonist; this is the Employment of Blind Disabled Persons Act, which determines that labour and other organizations are obliged to give priority in employment to blind disabled persons who are qualified to fill vacant posts as telephonists. An unemployed disabled person may take part in active employment policy programmes. The basic laws on which these programmes are based are the Employment and Insurance Against Unemployment Act and the Training and Employment of Disabled Persons Act. The Working Relations Act protects disabled persons against dismissal. Programmes of employment of disabled persons are carried out through the active employment policy.

The Ministry of Labour, Family and Social Affairs is responsible for policy-making, while the implementation of the measures and programmes is mainly carried out by the Employment Service of Slovenia and the Pension and Disability Institute.

Programmes carried out within the active labour market policy address the problem of social inclusion by facilitating participation and employment. They cover employment rehabilitation, work inclusion programmes, adaptation of workplaces for unemployed disabled persons, subsidies for sheltered companies employing disabled persons, subsidies for disabled persons, subsidies for home aid and personal assistance, and other measures intended for all unemployed persons (such as public works, motivation workshops, job clubs, etc.)

## ***Anti-discrimination rule***

The Labour Relationships Act adopted in 2002 forbids discrimination (article 6), both direct and indirect, on the basis of a disability (as well as on the basis of other personal circumstances). Disability cannot be the reason for the dismissal of a worker or for deciding on redundancies. Dismissal of a worker on the grounds of disability or because of absence from work due to sickness is not authorized.

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In concluding an employment contract (in compliance with the Employment and Unemployment Insurance Act), an unemployed person with a disability has priority if this person fulfils the working post's general and specific requirements. This means that such a person must have all professional and other abilities to fulfil the requirements of a specific working post.

### ***Sheltered employment***

Slovenia has two forms of sheltered employment: companies employing the disabled, and care and work centres (day centres). The Companies Act of 1993 and the Training and Employment of Disabled Persons Act define sheltered companies as companies which train and employ disabled persons who, because of their disablement and other working capacities and in view of their state of health, cannot be trained and employed under the same conditions as other disabled persons.

The status of a sheltered company can, with the prior consent of the Government of the Republic of Slovenia, be granted to a company which throughout the financial year trains and employs people with disabilities representing at least 40 per cent of all employees of the company. These companies train and employ people whose disabilities and reduced working capacity is such that they receive training and find employment under the same conditions as other people with disabilities.

On the market, sheltered workshops do not differ from other economic agents. Nevertheless, they have a special legal status with regard to taxes, employment relationships, social security and the like. They are entitled to a monthly compensation as part of the wage for the employed people with disabilities. Social security contributions (disability, pension and health insurance) for the employees are paid into a special employer's account and used as funds for the material development of the company.

According to the Training and Employment of Disabled Persons Act, control over the work and operation of a company for disabled persons is exercised by an expert commission which verifies the fulfilment of the conditions required for a company to be recognized by the Ministry of Labour, Family and Social Affairs as being engaged in the training and employment of people with disabilities. In accordance with other regulations, control is also exercised by the Tax Administration, the Court of Auditors and the Labour Inspectorate.

Apart from sheltered companies for disabled persons, Slovenia also has a network of day centres in which work activities are organized for adults with a mild or moderate disturbance in their mental development and for those who have, in addition, mobility impairments. Those in the care of these centres do not have employment status and do not receive a wage but an incentive payment only.

### ***Protection against dismissal***

An employer may not terminate the employment contract of a person with disability unless it is possible to find other suitable employment or part-time employment for this person. The relevant article in the Working Relations Act will be changed (probably in 2004) to make such dismissal subject to the permission of special commission.

### ***Health and safety at work***

The Health and Safety at Work Act of 1999 states that an employer is obliged to ensure health and safety at work. The employee is entitled to work in a working environment that is safe and healthy. The working process must be adapted to the physical and mental abilities of the worker while, as regards the nature of the work, the working environment and working equipment must provide for the safety for the worker and not endanger his/her health. Every employer must prepare and adopt a statement on safety at work, and an authorized physician must provide a health protection service. The workplace must be arranged in such a way that the disability of a worker is taken into consideration (architectural accessibility). The Act also contains provisions on the duty of an employer to provide occupational risk insurance for workers who perform specially difficult work that is detrimental to their health and for those workers doing jobs that cannot be performed after a certain age; this insurance must comply with pension and disability insurance regulations.

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According to the Labour Relations Act, workers with at least 60 per cent degree of disability, those with an occupational disability and those who look after a severely or moderately physically disabled, or severely or very severely mentally handicapped person, have the right to additional paid annual leave.

### ***Legislation initiatives for the future***

In order to improve the position of one of society's weakest groups, the Ministry of Labour, Family and Social Affairs has already prepared a special Strategy for Training and Employment of Disabled Persons 2003-06. This Strategy will also directly contribute to realizing some of the strategic goals of the National Programme for Labour Market Development and Employment 2001-06.

The draft for a new Act on the Rehabilitation and Employment of Disabled Persons is being prepared on this basis and it is expected to be adopted by Parliament in the beginning of 2004. The new statutory provisions require wider changes in this field, since the existing legislative provisions on the training and employment of persons with disabilities date from 1976. In addition to social reasons, economic arguments also dictate changes in this field, since measures introduced prior to 1990 discourage persons with disabilities from making an active effort to seek training and employment opportunities. The aim of the Act is to provide disabled persons with suitable training and employment in specialized fields and on the open labour market, based on their skills and abilities for work and independent life. The Act introduces the following innovations:

- the right to rehabilitation for employment, carried out by regional rehabilitation centres;
- sheltered employment in protected workplaces for disabled persons who, despite rehabilitation, can only be employed under certain conditions in regional and local job centres;
- professional, technical and material support and wage subsidies for employers that employ disabled persons;
- a quota system as an obligation for employers to employ a specific number of disabled persons in proportion to the total number of employees.

The Act also envisages the establishment of a public fund into which financial resources will be placed to provide employment support for persons with disabilities (i.e. funds from employers who do not employ the specified number of persons with disabilities under the quota system, and other funds).



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## Republic of Moldova

The passage from one social-economic system to another is a complex and difficult process which affects, more or less, all socially vulnerable categories of the population.

Among the problems of the transition period specific to the Republic of Moldova can be enumerated: job reduction, particularly in rural regions; unemployment growth; expansion of poverty; social inequality; slow growth of employment; increase in violence and all types of abuse, etc. These factors hinder the social integration of disabled persons.

Former policies for the disabled focused on financial compensation and special health services. However, the exclusion from social activities and from the life of society in general tended to encourage disabled people to adopt a passive way of life. This contributed to the formation of stereotypes in people's minds, an attitude that accentuated their lack of self-confidence, a lack of equal opportunities and discrimination.

Disabled people face problems on a daily basis. In 1999 an international scientific conference was held on the social integration of disabled persons, which stressed the need for solutions to the problems of handicapped people based on international experience and scientific research. The conference proposed the creation of a national board to devise a coherent state policy for handicapped people.

After the conference, a Government resolution established the National Board, which is composed of an inter-ministerial group (Ministry of Health, Ministry of Labour and Social Protection, Ministry of Education, Ministry of Finance), public associations for handicapped people, non-governmental organizations and scientific experts.

Multiple changes in society have affected the social security and social assistance system in the Republic of Moldova. An important aspect of social security concerns disabled people, who are handicapped at all levels, social, economic, juridical and psychiatric. As a result of the transition to a market economy, which has greatly modified the socio-economic situation of society, disabled people suffer from their incapacity to satisfy their needs.

The statistics on persons with disabilities are not complete. Official data indicate that on 1 January 2002, out of a total of 704,200 pensioners, 120,000 (17 per cent) were disabled.

### Number of pensioners and disability pensions paid, 1997-2002

	1997	1998	1999	2000	2001	2002
Pensioners	757 000	758 000	728 100	722 500	704 200	622 000
Total number of pensioners						
Disability pensions	115 100	119 500	118 700	119 700	121 900	115 200

During the period 1997-2001 the number of disabled people in Categories II and III increased. At the same time there was a decrease in the number of persons receiving disability pensions as a result of occupational diseases or accidents.

In a changing economic environment, the pension system is influenced more by variations in employment opportunities than by demographic trends. The system is very much linked to the market economy and to changes in the structure of employment. Hence the need for political action.

The current system of social assistance is based on cash benefits, social services and tax subsidies.

The successful integration of disabled people depends on their access to special education facilities, which ensure that they can enjoy all their rights laid down in the legislation of the Republic of Moldova and in ILO Convention No. 159, ratified by Moldova.

The Government of the Republic of Moldova has accordingly adopted a series of standard acts concerning the social protection of disabled people. On 24 December 1991 it adopted Act No. 821-XII on the social protection of disabled persons, which governs their juridical situation. The Act deals with the vocational training of handicapped people, their position in the social infrastructure,

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their health, their vocational and social rehabilitation, their employment, social assistance and the right of the disabled to create public organizations to defend their rights and interests.

Act No. 909-XII, adopted on 30 January 1992, concerns the social protection of those who suffered in the Chernobyl disaster. Persons who suffered in the disaster are entitled to free health insurance, free prostheses, annual health rehabilitation services, and other rights affecting their health and social rehabilitation.

Act No. 933-XIV of 14 April 2003 concerning the social protection of some public categories, established compensation for disabled people for the payment of communal services, energy, wood and coal.

Act No. 121-XIV of 3 May 2001 concerning additional social protection for disabled people and their families who suffered in the Second World War, established a monthly state allowance of 20 to 400 lei for the categories mentioned above, beginning on 1 May 2001.

Act No. 81-XV, adopted on 28 February 2003, concerns social canteens. There are 64 social canteens in the Republic of Moldova, which provide monthly services for disabled people, older people, and other categories affected by poverty.

Act No. 359-XV amending Act No. 499-XIV was adopted on 14 July 1999 and provides social allowances for some categories, including disabled people of Categories I, II and III.

On 16 November 1999 the Government adopted a National Programme on the protection, rehabilitation and social integration of disabled people for the years for 2000-05. The main objective is to promote a more positive attitude towards people improving the level of special health services and promoting their equal rights with other members of society.

On 1 March 2003 a National Employment Programme was adopted for 2003-05, which contains measures for the employment and social protection of disabled people, including vocational rehabilitation for disabled people in Categories I, II and III who face difficulty in finding employment.

On 13 March 2003 Act No. 102-XV was adopted on the employment and social protection of jobseekers. The Act provides for the expansion of the services by employment agencies, services for disabled people in Categories I, II and III.

During the first months of 2003 employment agencies assisted 273 handicapped people – 160 in Category III and 113 in Categories I and II; 16 per cent of these found employment. The Act focuses on target groups of the population: young people, disabled women, poorly skilled people, disadvantaged people on the labour market, the long-term unemployed, etc. Under the Act, employers who offer an indefinite contract for disabled people in Category III receive from the state budget a monthly sum equal to the minimum wage, for a period of 18 months.

On the proposal of employment agencies, the public administration authorities provide annual subsidies for job creation and employment for disadvantaged categories of the population.

Economic growth and poverty reduction strategies are in the planning stage for 2004-06, which will include the social integration of disabled people. They will require the creation of three specialized regional centres for the socio-economic reintegration of disabled people, as well as the updating of the Republic of Moldova's legislation to bring it in line with international and European standards on discrimination.

Another important matter currently before Parliament is the establishment of a national plan on human rights that will cover the social integration, labour market integration and basic human rights of disabled people.

The Republic of Moldova is well aware of the pressing need for measures concerning the integration of handicapped people in the labour market, irrespective of the origin, nature and degree of the handicap. Because of the economic problems faced by the Republic of Moldova and the limited resources available for the social integration of disabled people, many measures suggested in the National Programme for the Protection, Social Rehabilitation and Integration of Handicapped People for 2000-05 have not been fully implemented.

In order to ensure equal employment possibilities for handicapped people, it is necessary to undertake measures to combat discrimination so that they can find and retain jobs. Special measures need to be implemented for handicapped people, including: measures for their integration in an ordinary working environment, taking into account their individual skills and possibilities;

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vocational training at the highest level that is geared to the employability of disabled people; job adaptation involving appropriate operational and security measures; the provision of special tools and work outfits for the handicapped persons; financial contributions during work adaptation; support for new job creation; employment promotion for handicapped people; other financial benefits, etc.

In a developing labour market, it is necessary to undertake measures to ensure the integration of handicapped people in conditions where they are not exploited.

In order to promote the measures mentioned above, it is necessary to conduct thorough research into this field, which has not been the case so far. On the basis of that research, programmes can be devised which will include a variety of integration measures for handicapped people. International experience, too, can help resolve these problems, as well as assistance in the training of this category of people.

*Ion Holban, First General Vice-Director, National Employment Agency*