

THE EMPLOYMENT OF PEOPLE WITH DISABILITIES AS OFFICE EMPLOYEES IN THE PUBLIC ADMINISTRATION IN POLAND

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Abstract. Unemployment among people with disabilities of working age is a problem throughout Europe, including Poland. Here, the national employment rate is only 26.5%, almost twice as low as the European Union average. Private sector is the main workplace for people with disabilities in Poland. In the last decade, hope for improvement in the employment situation of this social group has been discerned in the public sector. Legislation obliging employers to employ people with disabilities and giving people with disabilities priority in public sector employment was expected to mobilize them. The article verifies the compliance of the state of practice with the current law within the framework of the title issue. The article presents basic legal regulations in the field of employment of people with disabilities in the public administration including civil service, both international and national. It then presents the recruitment procedure for civil servant positions in the public administration. The paper concludes with a presentation of the state of the practice of hiring people with disabilities in the public administration, distinguishing between systemic barriers, barriers on the part of public employers and barriers on the part of people with disabilities.

Keywords: disability, accessibility, employment, public administration, civil service, public sector

INTRODUCTION

Employment is an element that significantly improves the quality of life of a person with disabilities [Biel-Ziółek 2017, 30; Pawłowska-Cyprysiak, Konarska, and Żołnierczyk-Zreda 2013, 236; Borowiecki 2016, 82–85]. In this case, taking up employment provides a number of benefits, not only of an economic but also rehabilitation and socialization nature. Work for a person with a disability, in addition to economic benefits allowing to satisfy basic existential needs, also has a therapeutic function. It protects against depression, enhances self-esteem, self-confidence, improves physical fitness and body condition. It also counteracts isolation, marginalization, and social exclusion [Jaglarz 2017, 184–87].

Employment of people with disabilities is increasingly becoming a subject of public debate. Activity in this area has been promoted by the European Union for years. This is reflected in the legislative solutions adopted (e.g. the accession of the EU and the Member States to the United Nations Convention on the Rights of Persons with Disabilities,¹ the adoption of Council Directive 2000/78/EC of

¹ Convention on the Rights of Persons with Disabilities adopted in New York on 13 December,

27 November 2000 establishing a general framework for equal treatment in employment and occupation²) and long-term action plans such as the European Disability Strategy 2010–2020, one of whose priority areas is to increase the participation of people with disabilities in the labour market, where they are currently underrepresented.³ The organization also provides real financial assistance to member states from the European Social Fund to implement projects that promote the social inclusion of people with disabilities [Piechowicz 2016, 22]. Influenced by Poland's EU membership, a number of legal, institutional and financial regulations were adopted to facilitate access to the labour market for people with disabilities [Kryńska 2013, 25–38]. For years, the focus was on encouraging private sector employers to hire people with disabilities. Over time, it was recognized that public employers should be more involved in the process of vocational activation of people with disabilities. Their activity and involvement was to be an incentive and model for private employers in terms of employing people with disabilities and thus contributing to reducing unemployment in this social group [Kubiccki 2019, 38]. The assumption seems to be justified, especially that each year the public administration generates several thousand jobs.

The objective of this article is to analyse the legal status and practice in the field of employing persons with disabilities in the Polish public administration and their impact on the general state of employment in Poland. Against this background, a research problem emerges. The author verifies whether law provides sufficient guarantees for equality and accessibility in employment of persons with disabilities in public administration. If so, does the practice correspond with it? As a result of the formulated research problems, the author puts forward research hypotheses. First, it assumes that the law in the field of employment of persons with disabilities in public administration is appropriate, but practice does not keep up with it. In addition, it assumes that there is a need to develop solutions and make certain transformations that would allow to eliminate the discrepancies between the legal solutions and practice.

1. BASIC LEGAL REGULATIONS REGARDING THE EMPLOYMENT OF PEOPLE WITH DISABILITIES IN THE POLISH PUBLIC ADMINISTRATION

In Poland, the process of employment and provision of work by people with disabilities is regulated by an impressive number of legal regulations. On the one hand, they are intended to encourage and mobilize employers to cooperate with people from this social group. On the other hand, they are meant to stimulate vocational activity of people with disabilities and to ensure their safety and pro-

2006, Journal of Laws of 2012, item 1169.

² Official Journal of the European Communities L 303, 02/12/2000 P. 0016–0022.

³ European disability strategy 2010–2020, <https://ec.europa.eu/social/main.jsp?catId=1484&langId=en> [accessed: 02.01.2021].

tection in the process of employment and provision of work. The legal solutions adopted so far are a component of international and national regulations.

For over a century, the International Labour Organization⁴ has been creating international labour standards that are highly respected in the international community. Conventions and recommendations adopted within the framework of the ILO establish minimum standards of labour rights, the respect of which is a prerequisite for decent work and human respect.⁵ In the process of employment of persons with disabilities, Convention No. 111 concerning Discrimination in Respect of Employment and Occupation adopted in Geneva on 25 June 1958 is primarily important. Poland ratified the document in May 1961. In its Article 2 the ILO calls upon States to establish and pursue national policies in a manner to promote equality of opportunity and treatment in employment and occupation, with a view to eliminating all discrimination in this field.⁶ On the other hand, Convention No. 159 concerning Vocational Rehabilitation and Employment (Disabled Persons), adopted in Geneva on 20 June 1983, imposed an obligation on States Parties to develop and implement a national policy on vocational rehabilitation and employment of persons with disabilities. It also specified principles for such a policy, according to which it should, *inter alia*: ensure appropriate vocational rehabilitation measures accessible to all groups of persons with disabilities; promote the employment of persons with disabilities in the open labour market; respect the equal opportunities of workers with disabilities and other workers; respect the principle of equal opportunities and treatment of male and female workers with disabilities; adopt specific positive measures to ensure effective equal opportunities and treatment of workers with disabilities, which are not regarded as discriminatory towards other workers.⁷

The employment of people with disabilities is also regulated by the United Nations Convention on the Rights of Persons with Disabilities of 13 December 2006. In Article 5, the States Parties to the Convention recognize the equality before the law of all individuals, prohibit any discrimination on the basis of disability, undertake to ensure that persons with disabilities are protected against discrimination on all grounds and take appropriate steps to make rational accommodations.⁸ Furthermore, in Article 27, the signatories declared the recognition of the right of persons with disabilities to work, on an equal basis with others; the

⁴ Hereinafter: ILO.

⁵ International Labour Organization and Ministry of Labour and Social Policy, *Conventions and recommendations of the International Labour Organization 1919–2012*, Ministry of Labour and Social Policy, Warsaw 2014, p. 5–6.

⁶ Journal of Laws of 1961, No. 42, item 218.

⁷ Journal of Laws of 2005, No. 43, item 412, Article 2–4.

⁸ Rational accommodations are necessary changes in the work or work environment notified to the employer due to the special needs of an employee with a disability. They include working conditions and fringe benefits and all activities from the application process to the termination of the employment contract. Office the Government Plenipotentiary for Disabled Persons, <http://www.niepe.inosprawni.gov.pl/art,6,racjonalne-usprawnienia> [accessed: 05.01.2021].

protection and promotion of the exercise of the right to work by, *inter alia*: prohibiting discrimination on the basis of disability in all matters relating to all forms of employment, including conditions of recruitment, admission and employment, continued employment, career promotion and safe and healthy working conditions; protecting the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work; promoting employment opportunities and career development for persons with disabilities in the labour market; assisting persons with disabilities to find, obtain and retain employment and return to employment; promoting the acquisition of work experience by persons with disabilities in the open labour market and the employment of persons with disabilities in the public sector.⁹

The employment of people with disabilities in public administration is regulated primarily by national legislation. The Constitution of the Republic of Poland, dated 2 April 1997, regulates the general principles of respect for the rights and freedoms of all people, including people with disabilities. As in the above-mentioned Conventions, the Constitution also prohibits discrimination. According to Article 32(2) it is prohibited to discriminate against anyone in political, social and economic life, and on any other grounds. Such cause shall not be disability of any kind or degree. The Constitution also guarantees everyone the freedom to choose and pursue an occupation and to choose their place of work. On the other hand, it gives persons enjoying full public rights the right of access to public service on equal terms.¹⁰ An important direct (though very general) reference to people with disabilities is Article 69 of the Constitution. It has the construction of a programmatic provision, which on the one hand defines the tasks of the state and on the other indicates that the implementation of its provisions is determined by other specific legal acts [Hećma 2017, 7]. The wording of the provision indicates that public authorities are obliged by law to provide persons with disabilities with assistance in the adaptation to work.¹¹ The Polish Ombudsman explains that the scope of this task includes, *inter alia*, the creation of training and preparation programs and the introduction of incentives and facilitations in the process of taking up employment.¹²

Employment in clerical positions in the Polish public administration is governed by statutory provisions defining the rights and duties of civil servants, local government employees, and civil service employees. The three laws: the Act of 16 September 1982 on employees of state offices,¹³ the Act of 21 November 2008 on local government employees¹⁴ and the Act of 21 November 2008 on the civil

⁹ Journal of Laws of 2012, item 1169, Article 5 and Article 27.

¹⁰ Journal of Laws of 1997, No. 78, item. 483, Article 32(2), Article 65(1) and Article 60.

¹¹ Journal of Laws of 1997, No. 78, item. 483, Article 69.

¹² See <https://www.rpo.gov.pl/sites/default/files/Art%2069%20Konstytucji%20-%20dzialania%20RPO%202018-2019%20z%20ok%C5%82adk%C4%85.pdf> [accessed: 05.01.2021], p. 2.

¹³ Journal of Laws of 1982, No. 31, item 214 as amended [hereinafter: ESO].

¹⁴ Journal of Laws of 2008, No. 223, item 1458 as amended [hereinafter: LGE].

service¹⁵ include a provision with a similar wording from which it follows that if in an office/unit the employment rate of disabled people, within the meaning of the provisions on professional and social rehabilitation and employment of disabled people, in the month preceding the month in which the employment occurs/publication of a vacancy announcement, is lower than 6%, then a disabled person has priority in employment (if they meet the requirements for a given position or if they are among no more than five best candidates who meet the necessary requirements and most closely meet the additional requirements) (Article 3b ESO; Article 13a LGE; Article 29(1–2) CS).

Poland, following the example of other European countries (e.g. Germany, Greece, France, Slovakia), has introduced a quota system for the employment of people with disabilities in the form of a limited indicator [Koza 2016, 258]. The principles of its operation are set out in the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Persons with Disabilities. Pursuant to Article 21(1), an employer who employs at least 25 full-time employees is obligated to achieve a minimum of 6% employment of persons with disabilities. If the employer fails to do so, he is obligated to make monthly payments to the State Fund for the Rehabilitation of Persons with Disabilities (in Polish: PFRON). The payments are calculated as the product of 40.65% of the average salary and the number of employees corresponding to the difference between the employment rate of 6% and the actual employment of disabled persons.¹⁶ In simple terms, the payment is the amount multiplied by 0.4065 of the average remuneration and the number of posts that are missing to achieve the required level of employment of persons with disabilities. Financial resources collected by the Fund are allocated to vocational rehabilitation of people with disabilities and to support undertakings in the field of social rehabilitation of people with disabilities. This principle introduces a paradox, as the more employers employ people with disabilities, the less funds flow into the Fund, which consequently worsens its financial resources [ibid.]. It also follows from the Act that the employer is obliged to provide necessary reasonable accommodation to a person with a disability who is in an employment relationship with the employer, participating in the recruitment process or undergoing training, internship, vocational preparation or apprenticeship or graduate training. Failure to do so is considered a violation of the principle of equal treatment in employment.¹⁷

Provisions favouring the employment of people with disabilities in public administration are also contained in the Act of 26 June 1974, the Labour Code. The Code declares unacceptable any direct or indirect discrimination in employment, *inter alia*, on the basis of disability. It also prescribes equal treatment with respect to establishing and terminating an employment relationship, terms and conditions of employment, promotion and access to training to improve professional qualifi-

¹⁵ Journal of Laws of 2008, No. 227, item 1505 as amended [hereinafter: CS].

¹⁶ Journal of Laws of 1997, No. 123, item 776 as amended, Article 21(1).

¹⁷ Ibid., Article 23a(1) and (3).

cations, *inter alia*, without regard to disability. Equal treatment in employment means not discriminating in any way, directly or indirectly, *inter alia*, on the basis of disability. This principle is breached when an employer makes a difference in the situation of an employee, for example, on the grounds of disability, which results in the refusal to establish an employment relationship.¹⁸

The Polish legal system contains many regulations that protect people with disabilities in the process of employment in the public sector. They prescribe equal treatment, prohibit discrimination and grant the right to request reasonable accommodation. Moreover, they oblige employers to cooperate with people with disabilities through the quota system and, under certain conditions, entitle people with disabilities to priority in employment. Have the legal solutions been followed by practice? Have they resulted in increased employment of people with disabilities in the public sector?

2. RECRUITMENT PROCEDURE FOR OFFICIAL POSITIONS IN POLISH PUBLIC ADMINISTRATION

Recruitment for civil servant positions in the public sector is a complex, lengthy process and not always directly regulated by law. It turns out that the aforementioned Act on civil servants does not regulate the recruitment procedure for civil servant positions, nor does it define any general principles. The guidelines in this regard are contained in the internal regulations of state offices. The essential role in the process of regulating recruitment for official positions is assigned to the already cited laws: on civil service and on local government employees [Dubowik 2016, 348–49]. Internal documents (regulations, instructions) and the practice of a given organizational unit of public administration are also important in this process. How the recruitment process for official positions is carried out depends on the type of position. At higher positions recruitment takes place by appointment or nomination (e.g. in the civil service) and selection or appointment (e.g. in local government). On the other hand, in the case of lower positions, recruitment takes place in an open and competitive manner through a competition¹⁹ (e.g. civil servants, local government employees) (Article 6(2) CS; Article 4(1–2)LGE):

The recruitment procedure for clerical positions in the Polish public sector will be presented on the example of procedures for recruiting civil servants and local government employees. This was determined by the fact that these are the most numerous group of official positions that are potentially more accessible than other positions, access to which, due to the recruitment procedure, is very limited. Moreover, as has already been indicated, in these cases recruitment is conducted in an open and competitive manner.

¹⁸ Journal of Laws of 1974, No. 24, item 141 as amended, Article 11³, Article 18^{3a}(1–2), Article 18^{3a}(2), Article 18^{3b}(1).

¹⁹ Judgement of the Supreme Administrative Court of 20 May 2014, ref. no. I OSK 1996/14.

The recruitment procedure for clerical positions involves three main stages. First, through a public job offer, the attention of the largest possible number of candidates is attracted, and then, using various techniques to select people with the highest knowledge, skills and select one who meets the requirements. This process may seem easy only on the surface. In reality, it involves a lot of work, is time-consuming, and requires recruiters to have versatile skills, including a reliable and objective assessment of candidates' knowledge, skills, competencies, strengths and weaknesses, observation, reasoning, communication skills, and openness to others.

According to the law, a civil servant can be a person who is a Polish citizen²⁰ and the holder of full public rights, who has not been sentenced by a final court decision for an intentional crime or an intentional fiscal crime and who has the professional qualifications required to perform work at a given position and has a good reputation (Article 4(1–5) CS). The same conditions must be met by a prospective local government employee. An additional requirement in this case is to have at least a secondary education or secondary vocational education.²¹ If the vacancy concerns a managerial position, the candidate must additionally have at least three years of work experience or at least 3 years of business activity consistent with the requirements for a given position and have a university degree within the meaning of the provisions on science and higher education (Article 6(1) and (3) and (4) LGE).

The head of the unit (in local government administration) or the director general (in the civil service) disseminates information about the vacant clerical position. The announcement is shown in the Public Information Bulletin of the office (in the case of the civil service also in the Public Information Bulletin of the Chancellery of the Prime Minister), at the seat of the office, e.g. on the information board (Article 13(1) LGE; Article 28(1) CS). The content of the announcement should contain the name and address of the organizational unit; indication of the position; requirements for candidates in accordance with the job description, specifying which of them are necessary and which are additional; scope of tasks to be performed at the position; information about the working conditions at the position; list of required documents and indication of the deadline and place for submitting the documents. It is also obligatory to indicate whether in the month preceding the date of publication of the announcement, the employment rate of people with disabilities in the office is at least 6%.²² Candidates should be

²⁰ A foreigner may become a local government employee on the conditions stipulated in Art. 5(1–2) CS; Article 11(2–3) LGE.

²¹ Obtained after graduating from a second-level industry school on the basis of a vocational diploma in the profession taught at the technician level (after passing the vocational examination in a given profession) and obtaining a secondary school-leaving examination certificate after passing the matriculation examination, see Act of 14 December 2016, the Education Law, Journal of Laws of 2017, item 59 as amended, Article 19(2)(5).

²² Judgement of the Voivodship Administrative Court in Lublin of 10 April 2014, ref. no. III SA/Lu 984/13.

given an optimum amount of time to prepare and submit their documents, and the time limit must not be less than 10 days after the announcement is made public. The information that a candidate submits under the regulations is public information (Article 13(3) and (4) LGE; Article 28(3) CS).

A candidate for a given position should carefully verify whether he/she meets all the necessary formal requirements indicated in the offer (such as job seniority, education). If they do not, they must take into account the fact that their candidacy will be rejected at the initial stage of the recruitment process. On the other hand, failure to meet additional, optional requirements is not an obstacle and does not block the possibility of passing to the next stage of recruitment. The candidate must properly prepare the offer documentation. Offices require in the recruitment process to submit, among others: CV, cover letter (hand-signed and dated), statement of no criminal record, copies of documents confirming education, qualifications, skills (certificates, diplomas). The required documentation may include questionnaires specially prepared by the office.²³ A person with a disability should also submit a copy of a document that proves it (Article 13(2b) LGE; Article 28(2b) CS). If all formal requirements are met, the candidate should receive information about passing to the next stage of recruitment. This stage consists in verification of the candidate's knowledge and skills regarding the position he/she applies for. During this stage, the knowledge of legal acts that are the substantive basis for future work is checked first of all. The tools used to verify the candidate's knowledge and skills may include: knowledge tests, practical test, interview. In practice, at least two of the indicated tools are used. First, a knowledge test is conducted, after which the results of all participating candidates are made public and a few persons are invited to the next stage, which is an interview.

The recruitment committee can select a maximum of five people who meet the necessary requirements and to the greatest extent fulfill the additional criteria. The candidates are presented to the head of the unit (in local government administration)/director general (in civil service) in order to employ the most competent person. If the group of the best candidates includes a person with disabilities and in the office, in the month preceding the date of publishing the vacancy announcement, the employment rate of people with disabilities within the meaning of the provisions on professional and social rehabilitation and employment of disabled persons is less than 6%, the priority in employment is given to the person with disabilities. This rule does not apply to employment on managerial official positions in local government administration (Article 13a(1–2) LGE; Article 29a CS). The decision on the results of the recruitment is communicated directly after the interviews or after several days.

²³ Public Information Bulletin, *Advertisement about the recruitment of an employee for a vacant sub-inspector in the Accounting Department*, https://www.bip.bialystok.pl/postepowania/nabor_na_stanowiska_urzednicze/podinspektor-w-departamencie-rachunkowosci-7.html [accessed: 05.01.2021].

Recruitment for a new position in the office ends with preparation of a protocol, which includes, among other things, names and surnames of no more than five best candidates, indicating whether there was a person with disabilities among them and the reason for the selection. The last step is to immediately post information about the result of the recruitment on the information board in the office and publish it in the Public Information Bulletin of the office for the period of at least three months²⁴.

3. PRACTICE IN EMPLOYING PEOPLE WITH DISABILITIES IN THE POLISH PUBLIC ADMINISTRATION

In 2017, 3,116 thousand people held a confirmed disability certificate issued by a competent authority. Among this group, 1,680 thousand people were in the economic working age (in Poland for women it is 18–59 years and for men it is 18–64 years), which constituted 7.1% of all people of working age in the country. Unfortunately, as many as 71.1% of people with disabilities, i.e. 1,194.5 thousand were outside the labour market.²⁵ The activity of public sector employers should contribute to reducing unemployment among this social group. Meanwhile, a report published in mid-2019 by the Supreme Chamber of Control²⁶ on the employment of disabled persons by public administration and state legal persons²⁷ confirms that the employment of people with disabilities in the public sector is unsatisfactory. NIK audited 35 units in seven voivodeships²⁸ in the scope of their activities from 1 January 2016 to 30 June 2018.²⁹

It should be recalled that Polish legislation requires employers who employ at least 25 full-time equivalent employees to attain at least a 6 per cent employment rate of people with disabilities. The results of the NIK report indicate that the average ratio in the audited entities in mid-2018 was only 3.05%, which resulted in a statutory obligation for employers to make payments to PFRON in the total amount of PLN 10.6 million.³⁰

²⁴ Judgement of the Voivodship Administrative Court in Lublin of 10 April 2014, ref. no. III SA/Lu 984/13.

²⁵ Supreme Chamber of Control [hereinafter: NIK], *Employment of disabled people by public administration and state legal entities, Information on the results of the inspection*, Warsaw 2019, p. 6.

²⁶ NIK is the chief and independent body of state control, which evaluates, among other things, the activities of government administration bodies, local government bodies, the activities of other organizational units and business entities (entrepreneurs) to the extent to which they use state or municipal property or funds (Act of 23 December 1994 on the Supreme Chamber of Control, Journal of Laws of 2019, item 489 as amended, Article 1–2).

²⁷ A state legal entity is a legal entity that has an economic connection exclusively with the state and therefore exclusively uses state property or in which the state has an exclusive share.

²⁸ The voivodeship is the largest unit of the territorial division of Poland. On the basis of the Act of 24 July 1998 on the introduction of a three level division of the country's territory, 16 new voivodeships were created. The voivodeship has legal personality, and is headed by a voivodeship marshal.

²⁹ NIK, *Employment of disabled people by public administration*, p. 38.

³⁰ Act of 27 August 1997 on vocational and social rehabilitation and employment of disabled people, Journal of Laws of 1997, No. 123, item 776 as amended.

In searching for an answer to the question of why this state of affairs exists, it is important to consider the barriers that prevent public employers from increasing the employment of people with disabilities. Analysis of sources leads to the conclusion that there are barriers on the part of the system, employers and the interested parties themselves – people with disabilities.

Among the systemic barriers, the need to hold competitions for positions as officials seems to be an important one. It is more difficult for a person with disabilities to get through the above-described procedure and, above all, to fully present their competences during an interview [Żebrowski 2019]. In order to overcome the high level of competition, education, knowledge and skills are needed in the first place. Data confirm that people with disabilities continue to be less educated than non-disabled people, so it is harder for them to compete in the open labour market. In the 2018/2019 academic year, 21,500 students with disabilities studied at Polish universities (out of a total student population of 1,230,300), which was approximately 1.8 percent of all those studying.³¹ Much has been done over the past decade to allow people with disabilities equal access to higher education. Students can apply for an individualized organization³² or an individual course of study,³³ can use exerts and numerous forms of material assistance. Moreover, the function of a representative for the disabled and alternative teaching and examination methods have been introduced. Nevertheless, the decision to undertake or continue specific studies is still limited by architectural, organizational and mental barriers. Not every university is prepared to admit students with special needs. Sometimes there is no free access to lecture halls, lifts, toilets, books or computer equipment. Another problem is the low social awareness of the functioning of people with disabilities. Indifference to their presence, ignoring important functions, oblivious creating of barriers result in exclusion and hinders integration with the academic community [Konarska 2014, 55–56]. This situation has an impact on the number of people with disabilities applying and hired.

The already mentioned provisions imposing a financial penalty for not fulfilling the obligation to employ persons with disabilities and giving priority to their employment also proved to be a barrier. The regulations were supposed to significantly improve the employment of people with disabilities [Kołodziejska 2012]. However, this did not happen, as evidenced by the amount of contributions paid

³¹ See <https://stat.gov.pl/obszary-tematyczne/edukacja/edukacja/szkolnictwo-wyzsze-w-roku-akademickim-20182019-wyniki-wstepne,8,6.html> [accessed: 05.01.2021]; <https://stat.gov.pl/obszary-tematyczne/warunki-zycia/ubostwo-pomoc-spoieczna/osoby-niepelnosprawne-w-2018-roku,24,1.html> [accessed: 05.01.2021].

³² Individual organization of studies is a special mode of organization of classes, which allows for individual determination of the methods of learning a given subject, selection of a training group, setting the dates of classes, in particular early leaving from classes, absence from some classes and individual determination of the date and manner of taking the exam/credits in a given subject.

³³ Individual course of studies consists in the selection of subjects in the scope provided for in a given field of study and in an additional scope, as well as in the student's participation in research, development and implementation works.

by public employers to PFRON. The repression in the form of a financial penalty was meant to mobilise. However, it turned out to be more effective in the case of private employers, due to the fact that they settle all liabilities from their own resources. On the other hand, public employers (especially the state administration) obtain funds to cover their obligations from the state budget and can foresee and plan their expenses also for PFRON. The situation is slightly different in the case of local government administration. Local governments have to think about savings, because, apart from subsidies, they rely on their own revenues. In this situation, perhaps the obligation to set aside such funds each time would be a motivating solution. For the time being, it seems that the statutory penalty for not achieving the 6 per cent employment ratio for people with disabilities is not always a penalty in reality, and employers prefer to make a payment to the PFRON instead of increasing their commitment to recruit an employee with disabilities [Radwan 2018; Stanisławski 2007].

A number of barriers to obtaining employment for people with disabilities lie in the behavior of public employers themselves. These are not eager to take additional measures to ensure that people with disabilities have the right to work and gain work experience on an equal basis with non-disabled persons. The NIK report shows that as many as 27 out of 35 audited units have not taken such measures. Employers did not establish cooperation with NGOs working for the benefit of people with disabilities. Neither have they taken steps to disseminate information about job vacancies on websites intended mainly for persons with disabilities. They also did not cooperate with universities to popularize information about employment opportunities or traineeships for students with disabilities. In the opinion of the NIK, inactivity with regard to the above initiatives has contributed to the low interest of people with disabilities in job offers in public administration or in state legal entities and has negatively affected the elimination of barriers on the part of people with disabilities. As a result, from the beginning of 2016 to mid-2018, in the audited units, only in 148 out of 1335 recruitments for official positions, 202 persons with disabilities applied, out of which only 33 were employed.³⁴

The information about violations of the Civil Service and Local Government Employees Acts by public employers is also deeply disturbing. The NIK reports that violation of provisions on priority in employment of persons with disabilities was detected in 3 units.³⁵ This shows that despite the legal obligation, employers have the courage to reject the candidacy of a person with disabilities. Such behaviour can be explained either by arrogance or fear, due to a lack of knowledge about particular disabilities and the stereotyped view, unchanged for years, that a person with a disability would be a poor employee. Polish employers are generally positive about employing people with disabilities but do not perceive them as potential employees in the organizations they manage. They are concerned,

³⁴ NIK, *Employment of disabled people by public administration*, p. 12.

³⁵ *Ibid.*, p. 12–13.

among other things, about the lower productivity of such an employee, frequent absence from work due to sick leave, communication or additional costs of adapting the building and the workplace to the needs of a person with disabilities [Kwiatkowska-Citucha, Załuska, and Grześkowiak 2020, 19].

The construction of vacancy announcements for official positions is also a problem. Offers are written in incomprehensible language, are not sufficiently detailed and contain excessive requirements. The NIK notes that employers have included unreliable information in their job advertisements, which may be the reason for the low number of applications from people with disabilities. This practice indicates an unreliable performance of professional duties by those responsible for recruiting new staff and undermines trust in public institutions. In the case of state legal entities, in 10 out of 14 units, the lack of any rules and procedures for employment, including for people with disabilities, was diagnosed. Shortcomings have also been identified in the form of non-publication of recruitment information. In this case, it is difficult to speak of the transparency of the recruitment process or the assurance of equal opportunities for people with disabilities in obtaining employment.³⁶

The most striking data, however, concerns the level of accessibility of the buildings in which the audited units are located. The NIK checked 79 buildings, of which as many as 58 had barriers restricting or even preventing their use by persons with disabilities. Unfortunately, there are still offices and central administration units in Poland without any adaptations for people with disabilities. This state of affairs was found by the NIK in as many as 4 central offices.³⁷

The low rate of employment of people with disabilities in the public sector is also influenced by barriers on the part of this social group. It appears that the vast majority of people with disabilities do not seek employment. This is mainly due to low motivation to take up a job. Its sources are identified as health problems, low salaries, lack of jobs, insufficient qualifications and the attitudes of employers or colleagues. Thinking about taking up a job is also blocked by a certificate of inability to work, which does not exclude the possibility of employment. It is up to the doctor of occupational medicine to decide whether a person is fit to work. If there are no contraindications, there is no reason to resign from professional activity.³⁸ Low self-esteem and a lack of confidence in one's own abilities and skills are also not conducive to employment, creating a fear of competing with non-disabled people. This attitude causes people with disabilities to give up and not to seek or respond to job offers. It should be stressed that this attitude does not come from "out of the blue" either. On numerous Internet forums, people with disabilities say that there is no point in applying for a government job because a non-disabled person will eventually get one anyway. In addition, the way

³⁶ Ibid., p. 13.

³⁷ Ibid., p. 12–13.

³⁸ State Fund for the Rehabilitation of Disabled People, *Research on the needs of people with disabilities – Final Report*, Warsaw 2017, p. 13.

in which information about not hiring a person with a disability is communicated is often tactless and undignified. Such experiences have a destructive effect on the motivation to seek and obtain employment. Another important factor that blocks the professional activity of people with disabilities is their lack of knowledge about the rules for withholding social benefits if they become employed. The myth of the “disability trap,” that a person loses their benefit if they start work, is an unfounded and effective deterrent to people with disabilities trying to find employment. However, people with disabilities can receive social disability benefits and work and earn up to a legally defined income limit.³⁹

CONCLUSION

Practice shows that the employment status of people with disabilities in the public sector is not satisfactory. The legal provisions on the quota employment system and the right of priority in the employment of people with disabilities in the public sector adopted a decade ago have not changed much and require rethinking. In order to improve the employment of people with disabilities in the public sector, the NIK recommends increasing the cooperation of public employers with labour offices, non-governmental organizations related to the environment of people with disabilities and universities in the area of informing about job offers, internships and apprenticeships. The necessary step to improve the situation is the elimination of architectural barriers in potential employment places, which at the very beginning are the reason why a person with a disability resigns from applying for a job. Public employers should also ensure that the competition procedure is organized and executed in a lawful and reliable manner. Changes must also be made in the attitudes of managers and those conducting competitions for public office positions. Their activities should go beyond the implementation of the regulations (for example, posting competition announcements on disability-related websites). It is also necessary to eliminate mental barriers and stop giving in to stereotypes among employers. Specialised administration (Government Plenipotentiary for Disabled Persons' Affairs), labour market institutions, NGOs working for the benefit of the disabled community and the world of science should play a special role in breaking down and “disenchanted” the negative image of an employee with disabilities.

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³⁹ NIK, *Employment of disabled people by public administration*, p. 12–13.

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