



Sociální vědy

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SOCIAL AND VOCATIONAL REHABILITATION OF THE DISABLED IN THE SYSTEM OF SOCIAL POLICY IN POLAND

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Summary. This paper presents a system of social and vocational rehabilitation in Poland. It describes the different elements of the system and the tasks that were imposed on them. The analysis shows that the system is quite complicated and provides many tasks. Existing solutions are random, scattered, chaotic and full of unclear organisational targets, measures and methods used in the system of rehabilitation of the disabled. Although the integrative model of rehabilitation is being promoted, one gets the impression that rehabilitation is a matter of the relevant departments and institutions only, and not the whole of society. This causes the rehabilitation of these people not to be effective enough especially as far as professional aspects are concerned. Among others, one can see the source of such situation in employing inappropriate or irresponsible people who are responsible for solving the problems of this social group. The analysis of the Polish model of rehabilitation of the disabled do not gives grounds to conclude that it is a good or bad system – this type of evaluation is determined by many factors, including primarily the subjective ones. However it may be stated that the system is optimal, taking into consideration the current socio-economic conditions, as well as political ones.

Keywords: person with disability; social and vocational rehabilitation; work; system.

Introduction. The system of promoting employment and social and vocational rehabilitation of persons with disabilities is inseparable from social policy of the state and its level in the economic dimension is a derivative of financial capabilities of the state. One of the pillars and the basis for stability of the system is the relationship occurring between declarations and provisions of the law, and the way of achieving them.

1. The legal bases for social and vocational rehabilitation

In 1997, the Act on vocational and social rehabilitation and employment of people with disabilities was declared [Ustawa o rehabilitacji zawodowej i społecznej oraz zatrudnieniu osób niepełnosprawnych]. It says that «the rehabilitation of people with disabilities is a set of activities, in particular organisa-

tional, therapeutic, psychological, technical, educational and social, aimed at achieving, with the active participation of the people, the highest possible level of functioning, quality of life and social integration» [Ustawa o rehabilitacji, art 7, pkt 1].

This act has sorted the existing competencies of people with disabilities, as well as introduced the new ones. Additional responsibilities and rights of employers have been identified (among other things, employers with at least 25 employees were obliged to monthly payments to PFRON). New according to this Act is adjudication of disability for other purposes than the disability, thus creating conditions for the functioning of dual jurisprudence.

According to this Act, social rehabilitation is designed to enable persons with disabilities to participate in social life.



It should be implemented by the elimination of architectural, urban, transportation and technical barriers and those allowing communication and access to information. While the vocational rehabilitation involves the employment of people with disabilities, both in protected and the open labour market.

The Act states that the tasks arising from it are coordinated and implemented by the Secretary of State, Government Plenipotentiary for Persons with Disabilities in the ministry responsible for social security. One of its tasks is to initiate and coordinate efforts to reduce the impact of disability and barriers making social functioning of people with disabilities more difficult. Tasks in this area can be carried out by NGOs and municipalities at the request of PFRON.

The act contains regulations concerning the principles of creation, operation and elimination of sheltered workshops, the competence of local government and other government bodies in relation to people with disabilities, the rules for granting loans for starting business and the opportunities and scope of training people with disabilities to take up paid work.

2. The definition of disabled person

A disabled person is defined in the Polish Act on vocational and social rehabilitation and employment of people with disabilities: «disabled people are those whose physical, mental or intellectual state may permanently or temporarily impede, limit or prevent the fulfilment of social roles, in particular, the ability to work» [Ustawa o rehabilitacji, art 1]. However, in the Social Assistance Act disability is defined as «a physical, mental or intellectual state, causing permanent or temporary inconvenience, reduction or complete preventing of independent existence» [Ustawa o pomocy społecznej, art. 2a, ust. 1, pkt. 3]. It seems that thus reformulated concept of «disability» is used especially in economics and in practice of social services.

Issues related to judicial decisions for non-pension purposes are regulated by the Act on vocational and social rehabilitation and employment of people with disabilities [Ustawa o rehabilitacji]. In this regard the decisions are made about disability (children up to 16 years of age) or the degree of disability (persons aged over 16 years). Decisions are made by the assemblies of disability matters in the two-level system: the first level – the district teams, the second level – voivodship assemblies. Decision of the voivodship assembly may be appealed to the Court of Labour and Social Insurance. The teams include physicians, psychologists, educators, career advisers and social workers [Ustawa o pomocy społecznej, art. 6c, ust. 8].

For the purposes of social and vocational rehabilitation teams deciding about the degree of disability (the district judicial decisions teams) may classify [Ustawa o pomocy społecznej, art. 6c, ust. 8]:

- severe disability – a person with disturbed physical fitness preventing them from taking up employment or capable of working in particular in a protected workshop, who due to a significant limitation of independent existence, requires permanent or long-term care or assistance from another person, necessary to perform social roles;

- moderate disability – a person with disturbed physical fitness capable of working in the workplace adapted according to the needs resulting from a disability, who due to a significant limitation of independent existence, requires partial or temporary assistance from another person, necessary to perform social roles;

- light disability – a person with disturbed physical fitness capable of working, who does not require any assistance from another person, necessary to perform social roles.

For the purposes of determining the possibility to work, one can decide about complete or partial inability to work, taking into account the assessment of the degree and sustainability of disability, and the prognosis for recovery of the ability to



work. Such decisions are made by ZUS certified doctors.

The following degrees of disability can be distinguished [Ustawa o pomocy społecznej, art. 12]:

– complete inability to work and exist independently – which is decreed in relation to a person who due to disability entirely or partially has lost ability to perform paid work and can not be expected to recover such ability after retraining and the person needs somebody else's care when performing specific tasks;

– complete inability to work – which is decreed in relation to a person who has lost ability to perform any kind of work, but a person that is independent;

– partial inability to work – which is decreed in relation to a person who has significantly lost ability to work in accordance with level of their qualification.

Evaluation of inability to work for pension purposes is made by ZUS certified doctors. They can decide on temporary inability to work – if according to their medical knowledge, the person can recover the ability to work, or permanent inability to work – if according to their medical knowledge there is no possibility of recovering such ability [Ustawa o emeryturach i rentach z Funduszu Ubezpieczeń Społecznych, art. 14].

The decision of the doctors may be appealed to the ZUS medical committee, and the decision of the committee may be appealed to the Court of Labour and Social Insurance.

3. The system of social and vocational rehabilitation

Rehabilitation of disabled people is a complex process and is conditioned by multiple factors of endogenous and exogenous nature. Among the exogenous ones, the role of institutions supporting that process is particularly important. These are macro-social institutions, reflecting the results of the whole social life (eg. the existing legal system and central institutions) as well as downstream ones, satisfying the needs of a particular community,

or categories of persons (eg. agencies, welfare centres and local authorities).

Institutional activity in rehabilitation aims to search for forms of support for people in difficult situations caused by disability. These activities serve what the very concept of comprehensive rehabilitation contains. They take the rationalised form, focused principally on the effects of (educational, vocational, social), which emerged in connection with damage to health. The type and nature of the benefits is determined by custom, the imperative of the organisation, and finally the legal standard applied.

As a result of the administrative reform introduced in Poland in 1999, local governments have become the party primarily responsible for meeting the common needs of all communities. Therefore, the issue of vocational rehabilitation of persons with disabilities is one of the elements of the policy pursued in the municipality, district or voivodship. However, expanding the competences of local government administration did not reduced the role of government and non-governmental organisations – and these bodies have been assigned to perform tasks in this area.

The Rehabilitation Act gave legal basis for the appointment of the Plenipotentiary for Persons with Disabilities by the minister responsible for social security [Ustawa o rehabilitacji, art. 31]. According to regulations made under it, the plenipotentiary is appointed and dismissed by the Prime Minister, at the request of the Minister of Social Policy. The proxy exercises his duties with the assistance of the Office of the Plenipotentiary for Persons with Disabilities, which is a separate organisational unit in the Ministry of Labour and Social Policy and his advisory body is the National Consultative Council for Persons with Disabilities.

The National Advisory Council for Persons with Disabilities, provides a forum for interaction for people with disabilities, government administration bodies, local government and non-governmental organisations. The Council is an advisory body



of the Plenipotentiary for Persons with Disabilities. The scope of activity of the Council is to make proposals for the Proxy [Ustawa o zmianie ustawy o rehabilitacji zawodowej i społecznej oraz zatrudnianiu osób niepełnosprawnych oraz zmianie niektórych innych ustaw, art. 4] of projects aimed at the integration of people with disabilities and proposals for solutions to meet the needs of these people, resulting from the fact of disability. Furthermore, the Council issues opinions on drafts guidelines for the employment policies, vocational and social rehabilitation, legislation affecting or likely to affect the situation of the disabled and indicates the relevant authorities the need to issue or to change regulations in this area and provides opinions regarding government action programs for people with disabilities and information about their implementation.

A very important institution whose mission is to help people with disabilities, is known as the State Fund for the Rehabilitation of the Disabled (PFRON). It is a state special fund under the provisions of the Public Finance Act and the Rehabilitation Act. The Fund budget is created from penalty charges paid by companies that do not employ at least 6% of disabled persons, subsidies from the state budget, voluntary contributions from employers and income from remunerated loans, treasury bills or other financial assets. Therefore, the financial management of the Fund depends on the accumulated financial resources, which are the proceeds of the Fund, as well as the distribution of these funds for specific purposes for specific statutorily authorised entities. The Fund is a source of funding for social and vocational rehabilitation.

Since 1999 State Fund for Rehabilitation of Persons with Disabilities operates in the new organisational structure introduced in relation with the reform of state administration, in the form of the office in Warsaw and 16 regional branches located in the capitals of individual voivodships (until 1998 the Fund had 29 branches).

A large part of the tasks previously performed centrally by the office in Warsaw was transferred to be implemented by the branches of the Fund.

The legislator, when amending the law on rehabilitation, departed from the determination of the structure of the Fund's revenues to be spent on specific tasks. Lack of such an indication (or more strictly speaking its modification) allows the actual decision-making by local governments and their financial planning in the field of vocational and social rehabilitation according to local needs.

Legal provisions contained in the Act on rehabilitation in addition to the tasks referred to in it provide that resources in the Fund may be spent on [Ustawa o zmianie ustawy o rehabilitacji, art. 47, ust. 1]:

- 1) implementation of levelling the differences between the regions in which the unemployment rate is higher than 110% of the average rate in the country or where occupational therapy workshop or vocational activation plants have not been created;
- 2) nationwide activities; PFRON funds are allocated, among others, to the implementation of programs supported by the European Union funds for people with disabilities to be implemented in a given year;
- 3) the Supervisory Board of the Fund approved programs aimed at social and vocational rehabilitation, in particular addressed to persons with disabilities, including the refund of increased costs of employing people clinically affected with mental illness, mental disability, epilepsy, or the;
- 4) subsidy of tasks resulting from government programs, including those targeted at development of human resources and the prevention of social exclusion of the disabled;
- 5) 50% subsidy of interest rates on bank loans taken, provided that the use of these loans is related to vocational and social;
- 6) partially or entire funding of research, experts' opinions and analysis on social and vocational rehabilitation.



Other tasks financed by the Fund include, among others [Ustawa o zmianie ustawy o rehabilitacji, art. 48]:

a) the participation of people with disabilities and their guardians in rehabilitation courses;

b) sport, culture, recreation and tourism of people with disabilities;

c) the provision of rehabilitation equipment, orthopaedic items and aid equipment for disabled persons granted under separate regulations;

d) elimination of architectural, communication and technology barriers in relation to the individual needs of the disabled;

e) the construction and expansion of facilities for rehabilitation;

f) training and retraining of the of the disabled;

g) the establishment and operation of plants vocational activation;

h) interest on the bank loan to continue business activities or run their own or leased farm;

i) starting a business by a person with a disability;

j) the reimbursement of the costs of employing people with disabilities by the employer.

In addition to the tasks referred to in the Act, resources in the Fund are also allocated to municipalities to compensate for the revenue lost as a result of the application of the statutory tax exemptions from real estate, agricultural, forestry and civil law transactions tax – in the amount of lost revenue for those who run protected workshops or vocational activation plants.

The employment office coordinate all activities related to organisational, legal and economic consulting in terms of employment and business or agricultural activity undertaken by people with disabilities. A special role in this regard belongs to the head of the district employment office (PUP), which initiates and organises training for disabled unemployed job seekers, and for those registered in the PUP, in order to increase their chances of getting employ-

ment, increasing existing professional skills or economic activity, particularly if they do not have any professional qualifications. PUP also provide, on behalf of district governor, loans to start business or farm. The loan can be received only once from Labour Fund or PFRON by the disabled person.

The local government is defined as the government of the local region or as representatives and defenders of the interests of the local community [Wojciechowski 1997, s. 7]. Those interests are associated largely with the activities in the field of social and economic policy. The local community should have an impact on serving the needs in this area. This may depend on participation in decision-making, inspiring decisions and controlling activities.

The tasks of the local government should be to create and ensure the smooth functioning of the social infrastructure facilities that meet the daily and the most common needs of the people of the area. The tasks should also include self-organising and carrying out activities in the field of social security, including those of social and vocational rehabilitation of persons with disabilities. A proper diagnosis of needs of families and individuals in a given area should be regarded as an important task.

Summary

The analysis of the Polish model of rehabilitation of the disabled do not gives grounds to conclude that it is a good or bad system – this type of evaluation is determined by many factors, including primarily the subjective ones. However it may be stated that the system is optimal, taking into consideration the current socio-economic conditions, as well as political ones.

The legislation from the scope of rehabilitation of the disabled is unclear (eg. Terminology), incoherent and full of dispersed acts of regulations dealing with functioning of these people in different spheres of life. Legal standards for rehabilitation are included in the various branches of law (civil, family, labour). By ana-



lysing only those basic standards one can conclude that there are a lot of them and that they are included in a number of legal acts of various importance, which certainly does not help to learn and to use them.

The Act on vocational and social rehabilitation of persons with disabilities seems to be the most controversial one. This act was declared in a hurry after the “flood of the century”, already during the election campaign, therefore, its content and legislative part are underdeveloped and contains number of errors. The definition of disability and its degrees are defined incorrectly and new and improper jurisprudence on disability was created. The Act introduced a number of wrong regulations concerning the disabled and forms of their rehabilitation, which promote the outgrowths of excessive bureaucracy. The State Fund for Rehabilitation of the Disabled (PFRON) has been created at the national level, as a source of financing of rehabilitation, however the control and monitoring of its activities has been neglected. It seems that it is necessary to extend the competence of the National Consultative Council of the Plenipotentiary for Persons with Disabilities to the tasks of the social control of the Fund.

Financing of vocational and social rehabilitation itself is extremely complicated, both in terms of funding sources, as well as legal and institutional regulations. Financial resources, before they ever reach the disabled, go through many institutional levels (instruments) – the state budget, PFRON, local government budgets, district family assistance centres. The above situation is also influenced by the additional complexity of the system having its origin in the complex structure of powers and authority of many institutions and the PFRON itself. It results in low legibility of the system, poor monitoring and control, irrational correction of operations of spending and the extensive bureaucracy and duplication of competence (eg. on the granting

of business loans by district, municipal or provincial authorities).

Generally, it is considered that resources in the Fund are used to finance vocational rehabilitation and social and medical assistance. However, more attention is paid to employment and vocational rehabilitation. Moreover, a dilemma arises whether the social costs of rehabilitation can only apply to people who are of working age or if it can also be extended to activities directed for disabled children. There are many signs that these funds were directed solely at activating people of working age. This is due to the fact that the objectives of PFRON are strongly bound with problems specific to the minister for social security. Also under the Act and its content one may conclude that resources in the Fund are allocated to rehabilitation of adults. Therefore, there is a need for a more precise definition of the purposes for which the money can be spent from PFRON. Failure in that respect, and the general definition of the recipient can lead to abnormalities in this area and the creation of chaos. Terms, conditions and procedures for the distribution of the Fund and the control of their spending should also be clearly standardised. Those applying for funding should be aware of clear rules for granting it. The nomenclature used in the Act on vocational and social rehabilitation and employment of people with disabilities also requires verification especially such concepts as: financing, granting and subsidies, etc.

The overall conclusion is that the existing solutions are random, scattered, chaotic and full of unclear organisational targets, measures and methods used in the system of rehabilitation of the disabled. Although the integrative model of rehabilitation is being promoted, one gets the impression that rehabilitation is a matter of the relevant departments and institutions only, and not the whole of society. This causes the rehabilitation of



these people not to be effective enough especially as far as professional aspects are concerned. Among others, one can see the source of such situation in employing inappropriate or irresponsible people who are responsible for solving the problems of this social group.

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