



# DESK-BASED RESEARCH

National Legislation  
Summary –

*Employer  
recruitment of  
disabled people*

Project partner: ACE-ES  
Romania



## Intellectual Output 1: Desk based research of National Legislation

### Project Partner:

ACE-ES Romania

1. Labour Market participation rate of people with disabilities and unemployment rate – general and for people with disabilities. For example:

- demography of unemployed people
- rate of different disabilities
- employment sectors where people are employed

In Romania the total number of persons with disabilities is 839.632, of which 771.993 are adults<sup>1</sup>. Of these adults, 50,06% persons with disabilities are between the ages 18-65 years.

Despite the fact that the Operational Plan of the National Strategy "A society without barriers for persons with disabilities" 2016 - 2020 includes as a specific measure only "Monitoring the employment of persons with disabilities in the public sector", however, there are no clear and relevant data.

Regarding the statistics related to the employment of persons with disabilities in Romania, there is a great lack of data, because National Authority for Persons with Disabilities (NAPD) no longer collects such info related to employment, but only data related to the number of persons, types of disability, their distribution by regions, institutionalized / deinstitutionalized, etc. The latest NAPD employment statistics are those reported on December 31, 2017 having as main sources: *General Departments for Social Assistance and Child Protection at the country level and at the local level for the districts of Bucharest.*

At that time, the situation was as follows:  
- total employees - persons with disabilities - 33,882, of which adults employed by types of disability:

| <i>Physical</i> | <i>Somatic</i> | <i>Auditive</i> | <i>Visual</i> | <i>Mental</i> | <i>Psychic</i> | <i>Associated</i> | <i>HIV/AIDS</i> | <i>Rare diseases</i> | <i>Deafness-blindness</i> |
|-----------------|----------------|-----------------|---------------|---------------|----------------|-------------------|-----------------|----------------------|---------------------------|
| 9.029           | 14.129         | 3.508           | 2.702         | 867           | 1.171          | 1.774             | 514             | 171                  | 17                        |

Meanwhile, in 2017, the Government issued the Emergency Ordinance no. 60 of August 4, for amending and supplementing Law no. 448/2006 regarding the Protection and Promotion of the Rights of Disabled Persons which led to changes in the regime of protected units, and to the decline of the number of employees - persons with disabilities.

The Ordinance ruled out the possibility of employers to make purchases from protected units, with the

<sup>1</sup> according to the latest Quarterly Statistical Report, published in December 2019 by NAPD - <http://anpd.gov.ro/web/wp-content/uploads/2019/12/ANPD-Buletin-statistic-trim-III-2019.pdf>

*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*

increase of the contribution due in case of not employing a percentage of 4% persons with disabilities, from 50% to 100% of the minimum gross basic salary in the country multiplied by the number of places of work in which people with disabilities were not employed.

Although protected units should play a very important role in the occupation to people with disabilities that are hard to hire, they have disappeared from the market with the adoption of this Ordinance which amended the Law 448/2006 regarding the protection and promotion of the rights of persons with disabilities. Thus, after Emergency Ordinance from 740 protected units, with over 2000 persons with disabilities, at the date of 20.12.2019<sup>2</sup>, only 31 protected units were authorized and still functioning.

More recent statistics according to the data provided by the National Agency for Fiscal Administration only 30,271 people with disabilities were employed at 31.01.2019<sup>3</sup>, which is about 7.25%, much lower than the European average of 52-54%:

- 6,472 - in public institutions;
- 24,444 - in private system;
- 26,675 - full time;
- 4,617 - - part-time.

The 2019 national report - "EMPLOYMENT OF PEOPLE WITH DISABILITIES - an answer to the labor shortage" of the association PRO-Pact from Iasi county shows that in Romania there is an extremely bizarre phenomenon: at this moment no institution collects data and information about employment of persons with disabilities - neither NAPD nor the Agency National for Employment, nor Labor Inspection. Partial data can be found only at the National Agency for Fiscal Administration, but only on request.

## 2. Overview of National Legislation which regulates employment of people with disabilities

There are 2 categories of legislation:

- ✓ specific legislation, which refers directly to persons with disabilities
- ✓ legislation that regulates different fields, but which has specific provisions regarding persons with disabilities.

a) *Law no. 448/2006* Of December 06, 2006 regarding the Protection and Promotion of the Rights of Disabled Persons - this law regulates the rights and obligations of disabled persons granted for the purpose

<sup>2</sup> <http://anpd.gov.ro/web/informatii-utile/unitati-protejate-autorizate/lista-unitati-protejate-autorizate/>

<sup>3</sup> From the total number of people with disabilities employees, there are cases in which the same person with disabilities appears simultaneously employed in several employers (public institutions / in the private system) and with different types of contracts (part-time / full-time).

*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*

of their social integration and inclusion. The law has a complex character, comprising provisions on various aspects including a chapter dedicated to Orientation, Professional Formation, Occupation and Labor Employment.

b) *Government Decision No. 655/2016* of September 14, 2016 for the approval of the National Strategy "A society without barriers for persons with disabilities" 2016 - 2020 and its Operational Plan.

Strategy has a chapter "Employment", with the general objective: "Ensuring access for people with disabilities to an open, inclusive and accessible working environment, both in the public and in the private sector, while ensuring their effective access to support services to increase employment on the labor market".

c) *O.G. no. 68/2003* on social services, approved by Law no. 515/2003 with the subsequent modifications and completions establishes the measures of special social protection for children, respectively adults with disabilities:

- social facilities - (allowances, tax and tax exemptions, transport facilities, etc.) for health and recovery, education, housing, culture, sports and tourism, transport, employment, payment of personal assistant;
- social services - activities organized "to meet social, individual, family or group needs, in order to prevent and overcome situations of difficulty, vulnerability or dependence.

d) *Law No. 76* of January 16, 2002 on the unemployment insurance system and the stimulation of employment.

e) *LAW No. 219* of July 23, 2015 on the Social Economy.

### 3. OBLIGATIONS that apply to organisations (employers) or people. Include what people MUST do to comply with the law, and what they are encouraged to do

A. Any private organization and public authorities and institutions with at least 50 employees have the obligation to employ people with disabilities in a percentage of at least 4% of the total number of employees.

Prior to Ordinance 60/2017<sup>4</sup> these employers had two options:

1. either they could purchase products or services from authorized protected units, on a partnership basis, in the amount equivalent to the amount due to the state budget.
2. or they paid monthly to the state budget an amount representing 50% of the minimum gross basic wage in the country multiplied by the number of jobs in which the employers did not employ people with disabilities

The Ordinance ruled out the possibility of employers to make purchases from protected units, with the increase of the contribution due in case of not employing a percentage of 4% persons with disabilities, from

<sup>4</sup> See details on Section 1

*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*

50% to 100% of the minimum gross basic salary in the country multiplied by the number of places of work in which people with disabilities were not employed.

If initially the penalties paid by the employers were transferred to a special fund, used to finance the different assistance programs for people with disabilities, at present they are transferred to the general budget. Regarding the impact of this program, there is no official data indicating the employment rate of people with disabilities, as, in fact, there is no official evaluation of the employment programs for people with disabilities. In Romania there are over 17,000 employers with over 50 employees.

The Labor Inspectorate, which has the duties of monitoring and controlling the implementation of the quota system, does not present any information about it in the annual activity reports. Moreover, it could not provide any information on the number of verified companies that did not comply with the mandatory quota. In the case of the quota system, the control of law enforcement makes the difference between success and failure. In Romania, the control is very weak and the whole system is based rather on the voluntarism of the employers, thus explaining the limited impact.

The quota system in Romania has a poor implementation. It did not lead to a reasonable employment rate for people with disabilities, but only introduced a new tax that brings income to the budget. As these incomes are included in the general budget, it is not clear to what extent this money is returned to persons with disabilities in the form of integration services on the labor market.

B. In order to stimulate the employment of persons with disabilities, public authorities and public institutions, with the exception of public institutions of national defense, public order and national security, have the obligation to organize employment competitions exclusively for persons with disabilities, in compliance with the legal provisions in force. This measure does not exclude the possibility of persons with disabilities to participate in all other employment competitions organized by the public institution.

#### **4. PENALTIES that may be applied if they do not meet their obligations. These may include fines, taxes and welfare sanctions. (1 page)**

At this moment employers not hiring disabled people according to the quota system should pay to the state budget the minimum gross basic salary in the country multiplied by the number of places of work in which people with disabilities were not employed.

Failure to comply with the provision above is sanctioned with a fine from 20,000 lei to 35,000 lei.

#### **5. SUPPORT and INCENTIVES to encourage employment of Disabled people. For example: - grant aid, subsidies and financial assistance,**

*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*

- practical advice
- adaptations of work and equipment
- vocational Rehabilitation measures
- supported Employment Measures
- sheltered Employment Measures

There are two types of support and facilities for people with disabilities employment:  
A) support for persons with disabilities, who wish to be employed;  
B) support for employers who employ persons with disabilities.

#### **A)**

- Any person with disabilities who wants to integrate or reintegrate into work has free access to professional evaluation and guidance, regardless of age, type and degree of disability. The person with a disability participates actively in the process of professional evaluation and orientation, has access to information and the choice of activity, according to his wishes and aptitudes.

- Persons with special needs have the right to benefit from all the conditions for choosing and exercising their profession, occupation or occupation, to acquire and maintain a job, as well as to promote professionally.

- Persons with disabilities have the right to work and to receive the monthly allowance, the complementary budget and the companion allowance.

- There is no legal provision in the sense that a person with a severe disability, with an attendant loses his or her degree of disability and the attendant if he / she becomes employed. Being classified as disabled has nothing to do with work capacity.

- People with disabilities who are looking for a job or are in employment have the following rights:

- ✓ vocational training courses;
- ✓ reasonable adaptation to the workplace;
- ✓ counseling during the period prior to employment and during employment, as well as in trial period, by a specialist labor mediation counselor;
- ✓ a probationary period for employment, paid, of at least 45 working days;
- ✓ a paid notice, of at least 30 working days, granted at the termination of the individual employment contract at the initiative of the employer for reasons not attributable to him/her;
- ✓ the possibility to work less than 8 hours per day, according to the law, if they benefit from the recommendation of the evaluation commission in this regard.

Financing of the rights provided above for persons with disabilities looking for a job - they are supported by the insurance budget for unemployment, according to the law.

- Fiscal code indicates some exemptions for the following taxpayers - persons with severe or accentuated disability are exempt from paying income tax for the income obtained from: independent activities, carried out individually and/or in a form of association; revenues from intellectual property rights; salaries and assimilated to salaries; pensions; agricultural activities, forestry and fish farming, made individually and/or in a form of association without legal personality.

*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*

- Only within the project "Facilitating the insertion in the labor market of persons with disabilities", project implemented by the National Authority for People with Disabilities (NAPD) in partnership with the National Agency for Employment, co-financed by the Human Capital Operational Program (POCU) - Priority axis 3 - Jobs for all - a voucher is granted, at the request of the persons with disabilities who benefit from active employment measures, registered on the county employment agency or of the municipality of Bucharest agency. This voucher is for purchasing of assistive products, recommended by the specialist doctor, which can be found in the List of assistive technologies and priority access devices for employment. Project duration is 3 years (2019-2022).

## **B.**

The authorized protected units benefit from the following rights:

- a) exemption from the payment of the authorization fees for setting up and re-authorizing;
- b) exemption from payment of the corporate income tax, provided that at least 75% of the fund obtained by exemption to be reinvested for restructuring or for the acquisition of technological equipment, machinery, machinery, work equipment and/or fittings/adaptation of protected workplaces.

### Other employers:

Employers who have employees with disabilities benefit from several tax facilities. The following expenses are deductible from the calculation of the taxable profit: the expenses incurred to adapt the work place, to purchase the equipment used in the production process by the disabled person, to transport the disabled persons from home to the workplace, for the transport of raw materials and finished products to and from the home of the disabled person, employed for working at home.

The specific expenses of training and professional orientation are deductible from the unemployment insurance budget that the employer pays to the state budget.

At the same time, organizations which, in relation to the number of employees, have fulfilled their obligation, according to the law, to employ persons with disabilities, as well as organizations which are not obliged by law to employ persons with disabilities, they will receive for one year period the minimum wage in the economy, monthly, for each disabled person employed, provided that the employer keeps employed this disabled person at least 2 years.

Moreover, the employers who conclude a contract with indefinite duration with graduates among persons with disabilities are exempted from paying unemployment insurance and receive monthly, for 1.5 years different amounts, depending on the level of education of the young person with disabilities:

- a) 1 minimum gross basic salary in the country for the graduates of the lower cycle of the high school or of the arts and crafts schools;
- b) 1,2 minimum gross basic salaries in the country, for the graduates of upper secondary education or post-secondary education;
- c) 1.5 minimum gross basic salaries in the country, for the graduates of higher education.

*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*

Insertion social enterprises<sup>5</sup>:

- They can be financed from public and/or private sources, national or international, according to the legal norms applicable to each of the categories from which they do part of the financing sources and benefits from free of charge for the issuance of the social trademark and registration in the Register of Social Enterprises.
- The social insertion companies can receive free advice on setting up and/or business development, through specialized departments at the employment agency level, and they can benefit from facilities from the local public administration authorities, respectively:
  - a) the allocation of spaces and/or lands in the public domain of the units/subdivisions administrative-territorial, in compliance with the provisions of the Law of local public administration no. 215/2001, republished, with the subsequent modifications and completions, for the purpose of development the activities for which the social mark was granted;
  - b) support, in promoting the products realized and/or provided, to the services provided or works performed in the community, as well as in the identification of some markets thereof;
  - c) support in promoting tourism and its activities, by capitalizing on it local historical and cultural heritage;
  - d) other facilities and exemptions of taxes granted by the public administration authorities local, according to the law.

Unfortunately, the methodological norms for applying the provisions of Law no. 219/2015 on the Social Economy do not specify what the tax exemptions are; how can I benefit from free spaces, etc. In these norms are stipulated only obligations, but not the rights of the insertion social enterprises.

## 6. Webgraphy or bibliography reference

Law no. 448/2006 regarding the Protection and Promotion of the Rights of Disabled Persons

<https://www.prostemcell.ro/images/stories/download/Lege-448-2006.pdf>

LAW no. 219 of 2015 on the Social Economy

<http://www.mmuncii.ro/j33/images/Documente/Legislatie/L219-2015.pdf>

Fiscal Code - <https://www.noulcodfiscal.ro/titlu-4/capitol-1/articol-60.html>

<http://anpd.gov.ro/web/>

Law No. 76 of January 16, 2002

[https://legislatiamuncii.manager.ro/a/24229/legea-somajului-2017-legea-nr-76\\_2002.html](https://legislatiamuncii.manager.ro/a/24229/legea-somajului-2017-legea-nr-76_2002.html)

<sup>5</sup> According to LAW no. 219 of 2015 on the Social Economy

*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*

<http://anpd.gov.ro/web/wp-content/uploads/2016/09/MO-nr-737Bis-din-22-septembrie-2016.pdf>

<http://www.mmuncii.ro/j33/index.php/ro/>

<https://www.fiscalitatea.ro/angajare-persoane-cu-handicap-procedura-aplicare-facilitati-model-de-conventie-19826/>

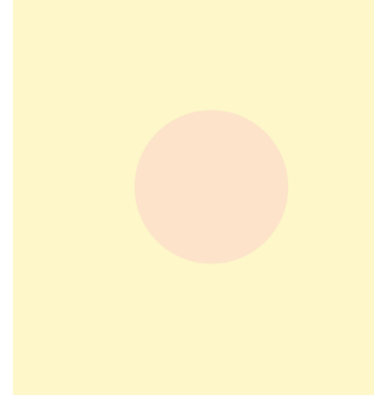
[https://www.dcnews.ro/ministerul-muncii-noi-facilitati-pe-pentru-angajarea-persoanelor-cu-dizabilitati\\_626382.html](https://www.dcnews.ro/ministerul-muncii-noi-facilitati-pe-pentru-angajarea-persoanelor-cu-dizabilitati_626382.html)

[http://sgg.gov.ro/legislativ/docs/2014/12/6zfbn3dkj05\\_sm98rgv2.pdf](http://sgg.gov.ro/legislativ/docs/2014/12/6zfbn3dkj05_sm98rgv2.pdf)

[https://www.pro-pact.ro/wp-content/uploads/2019/08/PRO-PACT-POLITICA-PUBLICA-AUGUST-2019.pdf?fbclid=IwAR3HQTt2KZoY\\_li\\_Cmv66Lkew3ct2xrhGgGBW2bOOsSI0283424Njeg-BCU](https://www.pro-pact.ro/wp-content/uploads/2019/08/PRO-PACT-POLITICA-PUBLICA-AUGUST-2019.pdf?fbclid=IwAR3HQTt2KZoY_li_Cmv66Lkew3ct2xrhGgGBW2bOOsSI0283424Njeg-BCU)

[http://www.mmuncii.ro/j33/images/Documente/Legislatie/05112019\\_Ordin\\_1263-2019.pdf](http://www.mmuncii.ro/j33/images/Documente/Legislatie/05112019_Ordin_1263-2019.pdf)

*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*



# AWARENESS 4CHANGE

**Project Partners:**



*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*