

Hungarian System of Vocational Rehabilitation and Supported Employment in a Nutshell (2001)

The system described below is valid, however, it is subject to a basic reform after Hungary has become a member state of the European Union

1 Legislative background, disability policy, institutional context

The Hungarian Constitution ensures equality, right to work and social security for each citizen as fundamental human rights principles. During the past fifteen years several legal instruments have been adopted that guarantee the rights and equal opportunities of people with disabilities with special reference to partly compensating for the unfavorable effects on the labor market of the transition from a centrally planned to a market economy. Until about one and a half decades ago vocational rehabilitation had hardly any institutional traditions because during the period of full employment – when demand for labor exceeded supply and wages were centrally controlled – the problems people with disabilities encountered in employment remained hidden.

The first attempt to encourage enterprises to take on workers with disabilities appeared in the legislation of 1967 when a general labor market shortage characterized the economy. The law imposed different obligations on industrial enterprises but the level of state subsidy was not high enough to encourage them to opt for a new employment policy with regard to workers with disabilities. The control over fulfillment of obligations was not effective enough resulting in the alteration of system in 1983.

The decree issued jointly by the Ministry of Health and Ministry of Finance that year on the employment and social benefits of persons with reduced working abilities brought thorough modification in the earlier provisions concerning the employment of individuals with disabilities under the jurisdiction of the decree. Although it has been amended since then several times, it is still the basis of legislation on people with disabilities. The decree addresses the following issues: the duties of employers and rehabilitation committees related to the vocational rehabilitation of persons with reduced working abilities, income supplement and other benefits granted for the persons concerned. The decree defines the objective of the vocational rehabilitation of persons with reduced working abilities as follows: to ensure the opportunity for remunerative working activity for the persons concerned following medical rehabilitation, work that suits the person's state of health and vocational qualifications.

The amendment decree of 1986 introduced the compulsory employment of people with disabilities by which the problem of how to control the complying with legal obligations of enterprises was solved and fines as sanction applied.

The transition from a centrally planned economy to market economy exerted an unfavorable impact on the structure of employment. Unemployment rose steeply, and the cost of the passive benefits granted for people with disabilities grew. It became urgent to create a more effective and transparent legal background. A new Employment Act came into effect in 1991. In accordance with the government's employment policy, it encouraged the generation of new jobs, the prevention of unemployment and the lessening of its unfavorable consequences. Among other things, it included provisions on assisting the employment of people with disabilities and on the operation of the labor market organization that is of great importance in implementing the law. Even though that law was a major step forward in terms of the integration of people with disabilities and improving their employment conditions, several years had to pass before a law was adopted that declared their equal opportunities in the various other fields of life such as health care, education, training, place of living, culture and sport.

During the past decade, as part of disability policy and mainstream employment policy, increasing emphasis has been laid on the reform of social security and social benefit system of people with disabilities. The Act on the rights and equal opportunities of individuals with disabilities was adopted in 1998. It covers the complex rehabilitation to be ensured for people with disabilities and, as a result of rehabilitation, it seeks to enable people with disabilities to enjoy equal opportunities, independent lives and active participation in social life. It is an important accomplishment of the law that it bans discrimination against people with disabilities and defines sanctions for those who violate that rule. Acting in accordance with that law, the Hungarian National Assembly adopted a National Program for Disable Persons. The Program is to be taken into consideration, among other activities, when the central plans are worked out for employment and training.

1.1 Institutions involved in policy-making and implementation

In the 1980s the organization of the institutions of rehabilitation as well as the tasks and jurisdictions were repeatedly altered. That, coupled with indifference on behalf of the players in the field, brought about the system's low efficiency on the border of paralysis. In the beginning of the 1990s legislation that sought to improve conditions for people with disabilities gathered momentum. Several legal instruments of higher and lower level were adopted in order to reshape the system in accordance with the needs and possibilities. In harmony with the Employment Act of 1991, the organizational conditions for the vocational rehabilitation of people with disabilities has been ensured by the central and local organs of the labor market organization – which was set up to implement the mainstream employment policy objectives. These include rules that define the authority and work conditions of local and regional committees of rehabilitation that are responsible for rehabilitative employment and training. Professionally, the work of those organs is supervised by the Ministry of Social and Family Affairs. Rehabilitation task forces have been set up within the county and local employment offices.

They are charged with promoting the rehabilitative employment of persons with reduced working abilities and managing related administrative functions. In order to manage the complex affairs of individuals with disabilities effectively, they have to co-operate ever more intensively with the municipalities, various specialized agencies, the organs of the social security and employers. The above-mentioned legal instruments oblige the organizations concerned to co-operate. The role and weight of non-governmental organizations (NGOs) has grown in issues of disability policy and in practical implementation as they have received considerable financial assistance.

As from 1998, some of the tasks of the employment offices have been transferred to so-called public benefit companies. Such tasks are, for instance, offering guidance for those looking for rehabilitative employment and running programs and training course that help prepare for employment.

The 1998 Act also established the National Council for Individuals with disabilities. The Council assists the government in fulfilling its related functions and takes part in elaborating and implementing the National Program for People with disabilities. Both the national interest representation organizations of people with disabilities and non-profit organizations that assist people with disabilities have delegates on the Council.

1.2 Definition of disability

The definition of *disability* and that of *persons with disability* person can be found in several legal instruments. Depending on the character of the statute concerned, they vary in defining the circle of people who belong to their competence. Those definitions are, as a rule, consistent with the definitions that can be found in the social security regulations. Let us examine the decree of 1983 on the employment and social benefits of persons with reduced working abilities. A person might become qualified living with *reduced working abilities* if he or she is:

- a) because of reduced working capacity caused by the deterioration of his state of health, has become incapable of executing full performance in his original job without rehabilitative measures but does not receive old-age pension, disability pension, accident-related disability pension, old-age annuity or work disability benefit;
- b) receives accident-related annuity owing to work-related accident or occupational disease and has become lastingly unable to execute full performance in his original job;
- c) may not be employed by his original employer owing to his tuberculosis;
- d) has left the armed forces, armed corps or law-enforcement agencies because his reduced working abilities or state of ill health make him unsuitable for service.

According to the implementing order of the 1991 Act on promoting employment and the benefits of the unemployed, a person is defined as a persons with reduced working abilities who lives with physical or mental disability, or whose chances for obtaining or maintaining employment have decreased following medical rehabilitation because of his physical or mental impairment.

According to the 1998 Act on the rights and equal opportunities of people with disabilities, a person is disabled as far as vocational rehabilitation is concerned if he is considerably or fully devoid of his mental capacity or the capacity to see, hear or walk about or his communication is considerably limited and that causes him a lasting impediment in his active participation in social life.

2 Employment: legal obligations and rights of employers

An employer is obliged to strive for employing a laborer with reduced working abilities in his original position in his original trade. In case that is impossible, the employer is obliged to ensure within his sphere of activity a position for the employee where he can utilize his working capacities without the further deterioration of his state of health. To that end the employer has to modify working conditions, retrain the employee for doing another type of work, arrange vocational training, or by transferring the employee concerned to another workplace, one that corresponds to his age, qualifications and state of health. A person with reduced working abilities may also be employed in reduced working hours or in a separate section of the plant arranged for that purpose or, if the employee's work concerned makes that possible, he may take work home. The costs of related measures shall be borne by the employer.

2.1 Compulsory employment

In order to help people with disabilities find or retain employment, the 1998 amendment of the law on employment obliges a wide spectrum of employers to employ persons with reduced working abilities. Before 1998 the obligation only referred to certain categories of business organizations and the sheltered work establishments. The legislation currently in force obliges all employers (including non-profit organizations and budget-financed institutions) to employ persons with reduced working abilities provided their staff is in excess of twenty persons. The number of persons with reduced working abilities that has to be employed is 5% of the average statistical size of staff in the year concerned (as compared to 3% until 1998). For the purpose of establishing the size of staff, persons who do various categories of work for the benefit of the public with or without remuneration have to be left out. An employer who fails to observe his legal employment obligation must pay rehabilitation contribution. The annual sum of the rehabilitation contribution is the multiple of the difference between the number of people with disabilities employed and the prescribed number on the one hand and the rehabilitation contribution on the other.

2.2 Financial support

The rehabilitation contributions that are collected form the rehabilitation component of the Labor Market Fund which is a separated fund of the state budget. That is the primary source for assisting the employment of people with disabilities. By granting assistance for employers according to certain criteria – and thus involving the open labor market in this process – it becomes possible gradually to build a differentiated employment structure for people with disabilities.

The rehabilitation component of the Labor Market Fund may be used to assist an employer who employs a person with a 40% reduction in his working abilities or whose ability to enter into employment or retain his job are reduced owing to his physical or mental impairment. Assistance may be granted to capital projects, retrofitting projects and the expansion of tangible assets, all of which promote the employment of persons with reduced working abilities provided that such projects:

- generate a job for rehabilitative employment under normal operational conditions or they aim to modernize, upgrade, expand or keep at a certain level such an existing job, or
- aim to establish, upgrade, expand or keep at a certain level, a sheltered work establishment (as defined by a separate legal instrument), or
- ensure the purchase, upgrading or modernization of implements that facilitate the employment of persons with reduced working abilities.

Such support may be repayable, non-repayable or the two forms may be mixed.

Non-repayable support may be given to enhance employment security, that is the retaining of a job, for an employer who is suffering from a temporary liquidity problem and who employs a person whose reduction of working abilities reaches 40% and is employed in part time and who (the employer), without such support, would be forced to close down that job.

Support may be given from the employment component of the Labor Market Fund to promote placement for an employer who intends to employ a person with reduced working abilities who is a registered unemployed. Support may be the form either of wage supplement, support for work that serves the benefit of the public and/or paying in the employer's stead the social security contributions that are attached to that particular instance of employment.

Hungary's tax legislation makes it possible to grant a tax benefit for employers in order to promote the employment of people with disabilities. An employer who is not under the obligation of employing individuals with disabilities – because his staff is smaller than twenty – may reduce his tax base in a manner defined in the relevant tax law provided he employs a person with reduced working abilities.

3 Measures and supports for people with disabilities

3.1 Sheltered and supported employment

Sheltered work establishments (the so-called organizations created for a specific purpose and the social vocational workplaces) play a special role in the employment of persons with reduced working abilities. A business association may be designated to be an organization with rehabilitative employment provided a year has passed since it began rehabilitative employment, in the average of the six months prior to its application for such designation its average statistical staff reached at least thirty persons and persons with reduced working abilities reach at least 60% of the average statistical staff at that company. It is also a requirement that the applicant business association must ensure health provision that is adjusted to the state of health of the persons with reduced working abilities employed there.

Those legal requirements must be satisfied continuously during the operation of the business association concerned because support for the company concerned is based on the persons with reduced working abilities employed there. The size of the subsidy depends on the nature and degree of the disability of the persons employed. As a rule the sheltered work establishments are maintained by the local municipalities, and individuals with disabilities and persons with reduced working abilities are usually employed for work carried on at home or out of the home.

The sheltered work establishments are entitled to subsidies to help them employ people for the purpose of rehabilitation. The size of the subsidy is determined by legal instruments.

The role of alternative employment techniques has in recent years considerably grown in the field of rehabilitative employment, where the NGOs have realized fine results in utilizing the working abilities of persons with reduced working abilities and people with disabilities.

3.2 Vocational training

Taking into consideration the skills and state of health of the persons with reduced working abilities, training, or the insurance of vocational training, is the duty, in the first place, of the employer (at the time when the reduction of working abilities is established). The employer may apply for financial support to that activity. The persons with reduced working abilities and individuals with disabilities may attend, in addition to the training institutions that are available for the society at large, rehabilitative and general-purpose training program run by the employment offices. The services offered by the labor market organization are free of charge. The special institutions that are established in order to train or retrain people with disabilities offer their services by taking into consideration the conditions of the persons with disabilities. Such institutions have specially trained teaching staff who can carry out effective training. The NGOs play an important role also in this field. However, the number of applicants who seek training at such institutions by far exceeds the number of places available.

3.3 Protection against dismissal

In cases defined by law, the employment of a person with reduced working abilities may not be terminated by ordinary notice. The ban on notice does not refer to that person with reduced working abilities who is employed by a firm that employs fewer than twenty persons. Other such cases are as follows:

- such a person repeatedly fails to do his job properly or is incapable of doing his work, except when his unsatisfactory work performance or his inability derives from the reduction of his working abilities,
- an employer ensures a new workplace for his employee of reduced working abilities (one that suits his state of health, age and qualifications) within his sphere of activity or in an identical workshop at another employer – heeding the advice of the local committee of rehabilitation – or comes forward with a recommendation on training or attending a vocational training course or school but the persons with reduced working abilities does not accept the employer's initiative,
- the person with reduced working abilities is entitled to old-age pension, disability pension, accident disability pension, old-age annuity or work disability benefit,
- neither the employer, nor the committee of rehabilitation concerned can ensure a suitable workplace.

These statutory provisions protect both the persons with reduced working abilities and the employers. As for the latter, the law protects them from undue burdens that can derive from the employment of persons whose working abilities are low.

3.4 Financial support

A person with reduced working abilities who cannot be employed in his original job is entitled – on the basis of the conditions defined by the decree of 1983 (as for instance, the measure of the decrease in his working abilities, the impact of his health impairment on his working performance) – to earnings supplement, temporary earnings supplement, income supplement or temporary income supplement. The size of support and the duration of entitlement are determined by several factors. They vary in the various forms of social welfare support. Entitlement is only valid if the person concerned is ready to accept the rehabilitative measure of the employer and he participates in the rehabilitative procedure. The earnings supplement and the income supplement are awarded for the duration of re-training (in a training course it can be a maximum of twelve months, in vocational training a higher sum is awarded for a maximum of thirty months). An unemployed person with reduced working abilities may become entitled to the so-called training assistance, which covers his training-related costs plus earnings supplement.

People with severe disabilities older than 18 years of age are entitled to partial reimbursement of extra expenses stemming from their disabilities.