



# **Mutual Learning Programme**

DG Employment, Social Affairs and Inclusion

**Host Country Discussion Paper – Latvia**

## **Work-capacity or Work-incapacity - What is more important to support the employability of people with disabilities?**

**Peer Review on 'Work-capacity assessment and  
employment of persons with disabilities'**

**Riga (Latvia), 26-27 April 2018**



**EUROPEAN COMMISSION**

Directorate-General for Employment, Social Affairs and Inclusion

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## **Executive Summary**

Latvia is in the process of preparing reforms for its disability assessment system. The aim of the reform is to improve the existing system for determining the loss of work-capacity, emphasizing the assessment of remaining work-capacity, and to improve the support measures for the promotion of the employment of persons with disabilities (PWD) thus promoting the transition of PWD from recipients of pensions and benefits to taxpayers. In the field of disability the Ministry of Welfare (MoW) has set a goal 'to take measures aimed at the integration of persons with disabilities into the labour market by providing appropriate support, taking into account the type of functional disorders of the persons with disabilities'. In order to achieve this goal, it is planned to increase the number of people employed in subsidised workplaces and the proportion of PWD who are registered with the State Social Insurance Agency (Valsts Sociālās apdrošināšanas aģentūra) (SSIA) as employed persons.

From January 2015, the State Medical Commission for the Assessment of Health Condition and Working Ability (Veselības un darbaspēju ekspertīzes ārstu valsts komisija) (Medical Commission) assesses the loss of work-capacity, i.e. the loss or limitation of general ability to work due to functional impairment for people of working age. For the purpose of this report, it is not possible to determine whether the existing system for determining the loss of work-capacity is better than the previous system for determining disability, as the changes are relatively small.

A PWD similar to any other person who is registered with the Public Employment Service (Valsts Nodarbinātības aģentūra)(PES) has the right to receive any support defined by law. At the same time there are separate measures only to PWD or increased amount of support, for example, longer time in a subsidised working place. In addition to the services already provided by the PES, in 2017, new support measures for PWDs were introduced, namely a support person for the unemployed with mental disorders, a motivation programme for job search and social mentor services for long-term unemployed PWD. As new measures were introduced only from 2017, it is premature to judge the qualitative or quantitative results.

According to the data provided by the Medical Commission, at the beginning of 2017, for 9.3 % of the population of Latvia a disability was determined. But according to the information available to the SSIA, in December 2016, only 24.88 % of the PWDs were employed. Given the low level of employment among PWD, the MoW has initiated open public discussions on what is important to support the employability of PWDs. The NGOs, representing PWD, cannot make substantial proposals with respect to the assessment of work-capacity, as they consider this a very specific matter in which they lack the relevant expertise. In addition to the services already provided by the PES, it has been suggested to set quotas for PWD in public administration, thus showing a good example for the private sector and promoting the employment of PWD. The employers' confederation has encouraged amendments to the Labour Law by excluding the article protecting the PWD in cases of company dismissals to facilitate hiring. In relation to the debate on whether there should be an assessment of the loss of work-capacity or the remaining work-capacity – opinions are divided, particularly on who should determine it and what would be the most effective support measures for the integration of PWD in the open labour market. Discussions on all these issues are ongoing, solutions are being sought and experience from other countries is being analysed.

## **1 Situation in the host country**

### **1.1 Labour market situation of people with disabilities**

According to the PES, in June 2017 the registered unemployment level in Latvia was 7.2 %, which is the lowest level since 2009. From the total number of registered unemployed, 56.4 % were women and 43.6 % men. The unemployment length for 45.7

% of registered unemployed was less than six months. Of those long term unemployed<sup>1</sup> were 30.6 % and youth unemployed 6.8 %. Those unemployed with vocational education make the highest proportion – 36.3 %, of whom 50.4 % were over 50 years. From the total number of registered unemployed 12.9 % (8 626 people) had a disability, with an equal share of men and women. More than half or 59.0 % of registered unemployed with a disability were over 50 years, while the average length of unemployment was more than one year - 394 days. Out of the total number of registered unemployed with a disability 52.1 % were long-term unemployed, unemployed aged 15 to 24 years – 3.3 %. In October 2017 the number of registered unemployed with a disability decreased to 8 164, however, the proportion of the total number of unemployed increased by 13.4 %. Detailed information is provided in Annex 1.

In June 2017 the number of unemployed was reduced in all education and age groups of unemployed. Though those unemployed with a disability face a more complex return to the labour market. In June 2017, 385 PWD (re)enter into the labour market resulting in the reduction by 4.3 % compared to May 2017. In the first six months 1 778 persons with disability found a job, of whom 692 (38.9 %) did it after completing a PES measure (Public Employment Service, 2017).

## 1.2 Legal framework for people with disabilities

**The Labour Law** (2001) determines equal right to work, to fair, safe and healthy working conditions, and to fair work remuneration. These rights should be ensured without any direct or indirect discrimination irrespective to circumstances listed in the law, including a person's disability. In order to promote equal opportunities, an employer has to adapt the work environment in order to facilitate the establishment of a legal employment relationship with the PWD, fulfil her/his work duties, be promoted to higher positions or be sent for occupational training or upskilling, insofar such measures do not place an unreasonable burden on the employer. The Law determines that an employer is prohibited from giving notice of termination of an employment contract to an employee who is declared to be a PWD, in cases such as when an employee, who previously performed the relevant work, has been reinstated at work or the number of employees is being reduced. At the same time in Section 108, a PWD is identified as one of the employees who has the preference to continue employment relations in the case of a reduction in the number of employees, if performance results and qualifications do not substantially differ between employees (Labour Law, 2001). The MoW indicated that Amendments to the Labour Law have been prepared and are under discussion aimed at easing the dismissal of PWD due to the reason that there is evidence of negative impact on willingness of employers to hire PWDs due to those restrictions.

**The Support for Unemployed Persons and Persons Seeking Employment Law** (2002) and Cabinet Regulation No. 75 'Regulations Regarding the Procedures for Organising and Financing of Active Employment Measures and Preventative Measures for Unemployment Reduction and Principles for Selection of Implementers of Measures' (2011) prescribe active employment measures and preventative measures for unemployed persons, persons seeking employment and persons subject to the risk of unemployment, including PWD, the procedures for organising and financing of these measures. A PWD similar to any other person who is registered with the PES has the right to receive any support defined in legal acts (mainstreaming principle)<sup>2</sup>. At the

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<sup>1</sup> According to the Labour Law long-term unemployed persons are persons who have been registered by the PES for more than one year (Labour Law (2001)).

<sup>2</sup> A person registered with the PES has the rights and opportunities to receive support within the framework of the following measures: competitiveness measures, support measures for the long-term unemployed, youth guarantee, paid temporary public works, non-formal education, vocational training, retraining or qualification improvement, measures for certain groups of persons, the commencement of commercial activities or self-employment, training provided by the employer, the promotion of regional mobility of persons employed by entrepreneurs and support for unemployed people with addictions.

same time there are separate measures only for PWD, e.g., sign language interpreter, ergotherapy specialist, adjustments in the workplace, or increased support, for example, higher scholarship for young people with disabilities, longer time in subsidised working place (Regulation No. 75). Unemployed PWD have the opportunity to receive more targeted support under the 'Measures for certain groups of persons', that supports (re)integration into the labour market through subsidised workplaces<sup>3</sup> and additional support in the form of specific services. The employer employing a PWD in a subsidised work place is entitled to a subsidy for the wage of the unemployed person and a subsidy for the work supervisor's wage, including a lump-sum subsidy for the statutory mandatory medical check-ups and work place adaptation costs. If the employer is an association or a foundation whose purpose is to provide assistance to PWD, then it is additionally entitled to receive a subsidy for the compulsory state social insurance contributions. PWD may receive the services, for instance, of an ergotherapist, a sign language interpreter, a support person (for the unemployed with mental disorders). According to the Regulation No. 75 (2011), the wage subsidy is determined by the amount of the minimum monthly salary established in the country<sup>4</sup> when a PWD is employed in a low-skilled job, or not larger than one-and-a-half of the country's minimum monthly wage. The subsidy for work supervisor's wage is set at 50 % of the national minimum monthly salary (EUR 215). The costs of equipment and appliances, as well as the costs of manufacturing and acquiring of technical aids to adapt the work place for a PWD, may not exceed EUR 711. By December 31, 2017, 553 subsidised workplaces were established for unemployed PWD, or 26.7 % of the total number of subsidised jobs established (2074). And 645 unemployed PWD or 26.5 % of the total number of unemployed persons involved (2434) were working in the established workplaces (Public Employment Service, 2018).

It is important to highlight that for the unemployed PWD it is not a compulsory duty to register with the PES.

**The Disability Law** (2010) and Regulations regarding the Criteria, Time Periods and Procedures determining Predictable Disability, Disability, and the Loss of Ability to Work (2014) regulate the disability assessment. According to the Disability Law (2010) a **disability** is 'a long-term or non-transitional very severe, severe or moderate level limited functioning which affects a person's mental or physical abilities, abilities to work, self-care and integration into society'. The **loss of work-capacity** is 'the loss or limitation of the general work-capacity obtained during the working age as a result of a functional limitation, whereas a functional limitation is a physical or mental (body's ability; training, communication, orientation, movement, self-care ability; ability to control one's behaviour, activity, participation) disorder caused by a disease, trauma or inherited defect, which limits the person's ability to work, take care of himself/herself and hinders his/her integration into society'. Disability assessment - the assessment of the degree of functional limitation and the determination of the loss of work-capacity is made by specialised doctors from the Medical Commission.

### 1.3 Current situation in the disability field

In recent years the number of PWD has increased. According to the data provided by the Medical Commission, 9.3 % of the population of Latvia had a determined disability, compared with 8.1 % of the population in 2016. At the beginning of 2017, 182 048 PWD were registered in Latvia, including 8 296 children with disabilities and 173 752 PWD from the age of 18 years. Detailed information is provided in Annex 2. According to the Medical Commission's data, in 2016 the first-time disability was determined for 17 865 people, including 948 children and 16 917 persons aged 18 years and older (5.3% and 94.7% respectively). In the group of the persons aged 18 and older, the first-time

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<sup>3</sup> Subsidised workplaces for PWD are established within the framework of the ESF project 'Subsidised workplaces for the unemployed' (project No 9.1.1.1/15/I/001). The project is being implemented from February 2, 2015 until December 31, 2022.

<sup>4</sup> From 1 January 2018 the amount of minimum monthly salary is EUR 430 (Regulation No 656, 2015).

disability was determined for 66.7 % non-working persons (11 279) and 33.3 % employed persons (5 638). Similarly to 2015, also in 2016, within the total number of persons, for whom the first-time disability had been determined, the proportion of non-working persons was very high (65.7 % and 66.7 % respectively). More than a half (52.9 %) of people, for whom the first-time disability had been determined, was 60 years old or older. Among the people for whom the first-time disability had been determined, the number of people diagnosed with a very severe disability had increased. The percentage of employed persons for whom Group I disability was determined, constituted 7.2 %, whereas among non-working people this rate was 39.0 %. The main cause of a very severe disability is some form of general illness: the Group I disability was determined for 45.5 % of the persons with diseases of the cardiovascular system, to 57.3 % of the persons with genitourinary diseases, in 47.6 % of cases of mental and behavioural disorders, in 34.2 % of cases of eye and ancillary diseases, in 33.3 % of cases of malignant tumours and in 29.6 % of cases of nervous system diseases (State Medical Commission for the Assessment of Health Condition and Working Ability, 2017).

After the disability is determined, a PWD is entitled to a disability pension and/or other state social benefits and services. The amount of the disability pension depends on the social contributions made; however, data from recent years indicate that the average amount of disability pensions tends to decrease. The figures for 2017 indicate a slight increase in the average amount of the disability pension. Those who are not entitled to a disability pension may receive the state social security benefit. Detailed information on the average amount of pensions paid per month is provided in Annex 3.

Given the comparatively small disability pensions, it would be reasonable to assume that a PWD should have a relatively high motivation to work. However, the PWD's employment rate is low and it differs depending on the severity of the disability. According to the information of the SSIA, in December 2016 only 24.88 % of the PWDs were employed; the Group I disability was determined for 2.38 %, the Group II disability - to 36.54 %, while the Group III disability - to 61.08 % of the total number of employed PWDs. Detailed information is provided in Annex 4.

#### **1.4 The role of institutions in supporting people with disabilities in Latvia**

The **State Medical Commission for the Assessment** of Health Condition and Working Ability is a public administration institution subordinated to the Ministry of Welfare. The function of the Medical Commission is to perform disability assessments and make decisions on disability claims, determining whether or not applicants are disabled under the Disability Law (2010). After determination of a disability a PWD has a right to receive disability pension and/or state social benefits, services and other support stated in different legal acts. An unemployed PWD similar to any other person who is registered with the PES has the right to receive support in seeking employment.

The **Public Employment Service**, under the supervision of the Minister for Welfare, implements the state policy in the field of unemployment reduction, support for unemployed persons, persons seeking employment and persons subject to the risk of unemployment (the Support for Unemployed Persons and Persons Seeking Employment Law, 2002). The PES in co-operation with other state and local government institutions, natural and legal persons and associations of such persons, organises and implements active employment measures and preventative measures for unemployment reduction.

The **State Social Insurance Agency** is a state institution under supervision of the MoW, performing the public administration function in the area of social insurance and social services. SSIA administers the social insurance budget, registers socially insured persons and their contributions into the socially insured person's accounts, provides social insurance and selected social assistance services to the population – grants, calculates, recalculates and pays pensions, benefits and allowances as well as performs other statutory tasks (State Social Insurance Agency).

## **2 Policy measures**

### **2.1 New support measures for employment of persons with disabilities**

In May 2015, the Cabinet of Ministers adopted the 'Guidelines for Inclusive Employment 2015-2020' defining PWD as one of the target groups. In order to facilitate the integration of PWD into the labour market, a more targeted development of subsidised workplaces and introduction of new support measures for people with mental disabilities were planned. When planning support measures, one of the main priorities was to take into account the severity of the disability and the extent of the loss of work-capacity, 'which may be either a minimal barrier to engagement in the labour market or deny employment completely' (Cabinet of Ministers, Order No. 244, 2015).

In addition to the services already provided by the PES, in 2017 new support measures for PWDs were introduced, namely, a support person at work for unemployed with mental health issues (Regulation No. 115, 2017), a motivation programme for job search and social mentor services for long-term unemployed PWD (Regulation No. 527, 2017). At the same time it was defined that the costs of sign language interpreters, ergotherapists, support persons and other specialists are also covered within the framework of other measures implemented by the PES when services are provided to the PWD, such as for unemployed PWD involved in practical training, and young people with disabilities involved in the measures (Regulation No. 527, 2017). In 2017 the PES organized 'Open Doors Day for persons with disabilities' and the Parliament adopted the Social Enterprise Law (2017).

#### **2.1.1 Support person at work for those unemployed with mental health issues**

A support person at the workplace helps unemployed persons with mental disorders to integrate into the workplace and adhere to the rules of work and duties. Support can take the form of participation in discussions with the employer, the provision of support in acquiring and fulfilling the tasks specified by the supervisor, developing communication and communication with the employer, the supervisor and colleagues, providing psychological and motivational support. Services of the support personnel may be received within the framework of the measures relating to legal employment relationships - subsidised workplaces, training provided by the employer and initial work experience for young people. The duration of such services amounts to 12 months; during the first working week support can be received every day during the entire working hours, from the second to fifth week - no more than three hours per working day, from the sixth to ninth week - one hour per day, two times a week, from the tenth week - one hour once a week. The cost of the service may not exceed EUR 4.50 per hour, it may be provided not more than 40 hours per week, in proportion to the number of hours worked by the unemployed with disabilities. During the implementation of the measure, after the 12 months period has expired, both the employer and the person with mental issues can apply to the support person for a free consultation on the successful continuation of the employment relationships. In order to provide support services in the workplace, a person must have appropriate education in the fields of health care, social care or social rehabilitation, social work or caritative social work, pedagogy or psychology and occupations in this area. The PES service provider is selected by public procurement. The service may be provided by associations, foundations or other legal or natural persons, whose activities are aimed at the provision of assistance to PWDs (Regulation No. 115, 2017).

#### **2.1.2 Motivational programmes for job search and social mentor services for long-term unemployed persons with disabilities**

A motivation programme for job search and social mentor services for long-term unemployed PWD was introduced as a separate measure after discussions with NGOs representing PWD, who believed that PWDs have more specific needs, particularly in terms of the length and intensity of the support.

The duration of the motivation programme for job search is 80 academic hours. Within the framework of the programme, the long-term unemployed PWD may receive psychological assistance (individually and in groups), support and counselling for solving individual social problems, as well as participate in inter-professional meetings and motivational measures. The implementation of motivation programmes takes place individually or in a group (up to 12 people or up to 6, if dealing with mental health issues). The costs per participant amounts to EUR 900. It covers subsistence, transport to the venue as well as accommodation. The participants are entitled to the services of a sign language interpreter and other specialists support is necessary to enable participation in the motivation programme<sup>5</sup>.

The social mentor provides psychological support during the motivation programme and, after its completion, helps the long-term unemployed with disabilities to commence permanent employment. One social mentor provides a service for up to 12 people or for up to six people if three persons have mental disorders. The duration of such services may not exceed seven months, including the duration of the motivation programme itself and the probationary period after the placement. The cost of a social mentor service is set at EUR 7 per hour, and the duration of such services may not exceed 40 hours per week (Regulation No. 527, 2017).

When comparing the motivation programmes and social mentor services targeted specifically at PWDs and the general ones, the PWD's service costs are higher, have a longer duration and require some specialist support, given the needs of the beneficiary group. More detailed information is available in Annex 5.

### **2.1.3 Open Doors Day for persons with disabilities**

From October 30 to November 10, 2017, the PES, with the informative support of employers' organizations, carried out the 'Open Doors Day' for PWD, in which 62 employers and 207 participants took part. The purpose of the event was to promote the integration of PWDs into society and the labour market, giving them the opportunity to get acquainted with the actual work environment and processes in the companies, whereas the employers had the opportunity to find the necessary employees. 45 entrepreneurs and 16 associations participated in the event. Employers offered information about 53 different professions, such as a car mechanic, a customer service specialist, a confectioner's assistant, a clerk and others. Six PWDs found a job.

### **2.1.4 Social entrepreneurship**

One of the sub-goals set out in the 'Guidelines on Inclusive Employment 2015-2020'<sup>6</sup> was to develop social entrepreneurship in order to encourage the inclusion of unemployed at-risk groups in the labour market (Cabinet of Ministers, Order No. 244, 2015). In October 2017, the Parliament adopted the Social Enterprise Law (2017). The purpose of the law is to promote the improvement of the quality of life of society and to promote the employment of groups at risk of social exclusion, through the establishment of social enterprises. An enterprise that has acquired the status of social enterprise will be able to receive corporate income tax and immovable property tax reliefs<sup>7</sup>, in cases

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<sup>5</sup> The costs of a sign language interpreter may not exceed EUR 11.60 per hour of provision of services, and the duration of such services may not exceed 40 hours of direct translation per week, including the travelling time and transport costs are also covered (subject to submission of relevant documentation). The costs of other specialists support may not exceed EUR 150 during the participation in the programme.

<sup>6</sup> Guidelines on Inclusive Employment 2015-2020 provide actions towards the integration of socially excluded people (including PWD) into the labour market, simultaneously promoting person's economic independence and social inclusion.

<sup>7</sup> The Social Enterprise Law states that a social enterprise will be able to exclude from a non-taxable corporate income tax base the expenditures for: recreation and social inclusion measures aimed at groups of employees exposed to social exclusion risk; integration into the labour market and improving the quality of life; the acquisition of assets serving the achievement of the statutory objectives of a social enterprise and social inclusion measures, and donations to a public benefit organization for purposes that are consistent with the

specified by law - to use movable property without remuneration, to attract volunteers for the execution of activities that are not related to the company's management, accounting and principal functions of the company. The law will come into force on April 1, 2018, therefore, a number of Regulations for the identification of groups of people subject to the risk of social exclusion, the maintenance of a register of social enterprises, the procedures and conditions for granting business support are currently being developed (Social Enterprise Law, 2017).

## 2.2 Changes in assessing disability

As specified in Section 6 'Classification of Disability' of the Disability Law (2010), until December 31, 2014 persons of 18 years of age and older, were assigned the following disability groups depending on the degree of limitation of their physical or mental ability: Group I disability - a very severe disability; Group II disability - severe disability and Group III disability - moderate disability.

As of January 1, 2015, for persons of 18 years of age and up to the retirement age necessary to receive the state pension, the functional limitations and their degree is evaluated, the percentage of the loss of work-capacity is determined and the Group I disability - a very severe disability - is determined if the loss of work-capacity varies between 80-100 %; Group II disability - severe disability - if the loss of work-capacity is between 60-79 % and Group III disability - moderate disability - if the loss of work-capacity is between 25-59 %. Simultaneously the Regulations of the Cabinet of Ministers No 805 'Regulations Regarding the Criteria, Time Period and Procedures Determining Predictable Disability, Disability, and the Loss of Ability to Work' (2014) entered into force, providing that in addition to medical records, the persons aged 18 years and older shall also submit a self-assessment questionnaire of functional abilities.

The essence or purpose of these amendments was to start a gradual transition from a purely medical approach to assess disability to a social approach, laying a greater emphasis on the severity of functional disorders, not just on a particular disease (diagnosis). The major changes apply to persons of 18 years of age and up to the retirement age necessary to receive the state pension<sup>8</sup>, which is the largest group for which the Commission determines a disability for the first time or repeatedly. More detailed information regarding disability assessment is provided in Annex 5.

In 2016, the Ministry of Welfare initiated open public discussions on the possibility of making changes in the procedure depending on the disability, and hence - the loss of work-capacity is determined. The start of the discussion and the information in the mass media, suggesting that in the future the Group III disability could be declined, resulted in additional work for the Commission. Persons who did not have a disability status tried to 'get' it, while the PWD having Group III disability, wanted to switch the categories and obtain Group II 'just to be safe' (the State Medical Commission for Assessment of Health Condition and Work Ability, 2017).

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objectives set out in the statute of a social enterprise. Granting an immovable property tax relief, however, is at the discretion of the municipalities.

<sup>8</sup> From January 1, 2014, raising the retirement age from 62 to 65 years is taking place in Latvia. From January 1, 2018, the retirement age is 63 years and three months (Law on State Pensions, 1995).

### 3 Results

Given the fact that these measures have just started, it is premature to judge on the basis of any qualitative or quantitative results achieved. New support measures<sup>9</sup> will also be implemented during 2018, thus there is no information about the number of people benefiting from motivational programmes for job search and social mentor services for long-term unemployed PWD or an indication of the number of those unemployed with mental health issues having a support person at work.

In the Guidelines on the Implementation of the UN Convention on the Rights of Persons with Disabilities 2014-2020<sup>10</sup> (2013) by 2017 it was planned that 600 PWD will be employed in subsidised working places (current figure is 553 (Public Employment Service, 2018), 40 persons with mental health issues will be employed (no results available) and the proportion of employed PWD will be 30 % (no data for 2017). The employment rate of PWDs remains relatively low - only one in four PWDs is working. At the same time, even with the existing support measures for PWD employment, Latvia has relatively good employment rates for PWD (Calite-Bordane, 2017).

The Inclusive Employment Guidelines for 2015-2020 (2015) envisaged a preparation of a mid-term implementation report in 2017. But this has been postponed as the Latvian Ministry of Welfare intends to use the results of the detailed OECD evaluation of the services provided by the PES due 2018.

Regarding changes in the disability assessment it is not possible to determine whether the existing system for assessing the loss of work-capacity is better than the previous system for determining disability, as the changes are relatively small. Persons of working age are additionally assessed for the degree of functional impairment, and the legislative enactment determines the degrees of functional impairment and the corresponding percentage of loss of work-capacity. In cases of occupational diseases and occupational injuries the loss of work-capacity is determined according to a completely different procedure and the percentage of a loss of work-capacity has been determined for each specific diagnosis. It means that the Medical Commission determines the loss of work-capacity in two ways: in general cases, it first assesses the severity of the disability, taking into account the degree of severity of functional impairment and, subsequently - the percentage of the loss of work-capacity. But in cases where the assessment is carried out due to an accident at work or occupational disease, the percentage of the loss of work-capacity is determined first, taking into account the diagnosis of the disease, and then - the severity of disability.

The Medical Commission every year prepares a Public Report on its activities, indicating the number of persons assessed in the Commission, the main types of disabilities and other related data<sup>11</sup>. According to the data collected by the Commission it is possible to follow the changes in the number of PWD, changes in sex and age structures of PWD, causes of disability and other relevant data, but there are no any numbers on the impact in the number of people assessed and the degrees of disability.

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<sup>9</sup> Support person at work for unemployed with mental health issues, Motivational programmes for job search and social mentor services for long-term unemployed persons with disabilities.

<sup>10</sup> Guidelines on the Implementation of the UN Convention on the Rights of Persons with Disabilities 2014-2020 includes action 2 'Labour and Employment'. The target of this action is to take measures for the inclusion of PWD into the labour market by provision of appropriate support, taking into account the type of functional disorder.

<sup>11</sup> In 2016 assessment of predictable disability, disability and loss of work-capacity was carried out for 65 486 persons, including 62 497 persons above 18 years of age. The loss of work-capacity was assessed for 4 907 persons above 18 years of age, including first-time assessment to 1 396 persons (or 28.4 %) and reassessment for 3 511 persons (or 71.6 %). Loss of work-capacity to varying degrees was determined to 99.9 % of persons sent to assess the loss of ability to work (The State Medical Commission for the Assessment of Health Condition and Working Ability, 2017).

## **4 Difficulties and constraints**

The general public (both PWDs and employers) lacks information and understanding about the needs of PWDs and the available support measures. This is illustrated by the fact that today - after more than 20 years - the society has resumed discussions on the implementation of the quota system<sup>12</sup>. Therefore a greater emphasis is placed on the analysis of the experience of other countries in determining the loss of work-capacity or the remaining work-capacity, and motivating both the PWDs and the employers to maintain or commence employment relationships.

The aim of the labour market policy is to promote the emergence of an inclusive labour market, making full use of the human potential of the people of Latvia, including reducing the social consequences of unemployment, supporting the return of the unemployed to the labour market and a long-term participation in the labour market of the representatives of the groups at risk of social exclusion, and improving the quality of workplaces (Ministry of Welfare). Although PWD are considered to be at risk of social exclusion, the performance indicators do not include specific indicators for promoting employment of PWD. The creation of subsidised jobs and the increase in the number of disabled employees as indicators are outlined in the area of disability policy. The Inclusive Employment Guidelines for 2015-2020 (2015) conclude that PWD's performance differs depending on the severity of disability and the type of functional impairment.

### **4.1 Targeted services for persons with disabilities**

The policy planning documents focus on the diversification of services, taking into account the type of functional impairment. When assigning disability, a person is issued a disability certificate stating the severity of the disability and the period of disability, but no type of functional impairment is indicated. The mere percentage of remaining work-capacity or lost work-capacity does not indicate how much and what kind of work a PWD could do.

The average disability pension rate and employment rate of PWDs should be a great motivator for a PWD to return to the labour market, but the actual situation is that the possibility to register with the PES and receive the appropriate services is only rarely used. Perhaps one of the major reasons is that in most cases disability (and predominantly severe and very severe disability) in more than a half of the cases is determined for persons in pre-retirement age as a result of general illnesses.

It is easier for the PES staff to work and provide support if the official is aware of the needs of the particular individual. In cases of apparent disability (when visual, auditory and motor functional impairment is obvious) it is possible to offer more targeted PES services, whereas in cases of the so-called invisible disabilities (such as chronic diseases, mental disorders) the offer of appropriate services may depend on the professionalism of the respective specialist. In order for the PES to provide a more targeted, PWD-oriented service, there is lack of staff experience on issues related to the specific requirements of PWDs. However, as PES points out, in order to provide services to PWDs, its staff would need additional expertise or certain experts, such as an ergotherapist or an occupational physician, should be involved in the work of the regional branch offices of the PES.

### **4.2 Availability of sensitive data**

As there are no such legal requirements that would oblige a PWD to register with the PES (it is a free choice of an individual), similarly, the PWD does not necessarily have to indicate whether he or she is disabled and what is the type of functional impairment. On the one hand, both disability and the type of functional impairment are sensitive

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<sup>12</sup> Initially, the quota system was incorporated into the Law on the Medical and Social Protection of the Disabled Persons (1992)

data and are subject to a greater degree of protection, but, on the other hand, without knowing the specific type of the functional impairment, it is problematic for PES staff to deliver a PWD a targeted service. Given that for the majority of PWDs the disability has been caused by a general illness, a targeted service requires taking into account not only the type of functional impairment but also the individual's personal characteristics, age, education, wishes, skills, mobility restrictions, place of residence. Some of this information is available to the Medical Commission and could be used by the PES (by obtaining a permit from PWD).

### **4.3 Monitoring and supervision of services for persons with disabilities**

There is a range of available support services for PWD; however, they are not necessarily bound in one package. Besides, available services are linked to the disability status, rather than target person's inclusion into the labor market. The PES does not have access to the data on the services received by the PWDs within the framework of the offered measures, the recruitment and the duration of the employment relationships after receiving the support. There is no agreement between the public authorities (Medical Commission, PES or SSIA) who should provide PWDs with information on the available support measures and employment opportunities. The overall process concerning the PWD is not sufficiently monitored and supervised. There is no follow up or data on retention of employment relationships.

There are no specific studies or databases on whether those 33.3 % of employed persons for whom the initial disability was determined in 2016, continued to have the same job with the same employer, as well as there is no information on how many PWDs, who at the time of disability assessment did not work, registered with the PES as jobseekers or the unemployed. The data on PWD employment as classified by the severity of disability can be obtained by aggregating the data at SSIA disposal, but virtually is no information on half-time or remote employment of PWDs.

### **4.4 Work-incapacity versus work-capacity**

In Latvia, a number of people for whom a disability is assessed for the first time increase every year. The number of people for whom a very severe or severe disability is determined, is also increasing. The overwhelming majority in this category is made up of people in the age group of 60+. The loss of work-capacity is determined differently in the general cases and for persons who have suffered an accident at work or from an occupational disease. In the area of disability policy, the further direction of the development of the system for determining the loss of work-capacity or the remaining work-capacity is not clear. It is not clear if the assessment of the remaining work-capacity will motivate PWDs to return to the labour market or stay in it as long as possible. Representatives from several NGOs pointed out that PWDs are primarily concerned with the maintenance and rehabilitation of the state of health and functional capabilities, and then, with the opportunities for mobility and only then follows the interest in job opportunities. The survey commissioned by the PES and conducted in 2014 revealed that 58.9 % of the respondents with a disability mentioned their state of health as the main reason for not working, 11.1 % indicated that they felt too old, while 1.9 % did not work because of studies and 1.7 % - due to family circumstances (On Inclusive Employment Guidelines 2015-2020, 2015).

The loss of work-capacity is determined differently for persons in general cases and in cases where a person has an occupational disease or has suffered from an accident at work. The NGOs representing PWD and which have been involved in different working groups, do not have a specific opinion on the issue of determination of work-capacity, since there is a perception that the determination of the loss of work-capacity or remaining work-capacity is a very specific matter in which they lack the relevant expertise. Likewise, there is no opinion on what work-capacity should be assessed – the general ability to work or professional work-capacity. At the same time, it was pointed

out that the self-assessment questionnaire of the functional capabilities did not include questions about the person's ability to work.

#### **4.5 Employers' attitude**

As the representative of the Employers' Confederation of Latvia (ECL) pointed out, in the circumstances of today's tough competition only a few businessmen can afford employing a PWD. For the employer a PWD generates higher expenses than other employees (for example, the sick leave payments and the costs associated with replacing the sick employee). Tax incentives and changes in the procedure of payment of sickness benefit are some of the proposals that might motivate the employers to employ PWDs. In addition, employers are prevented from employing PWDs by the prohibition set forth in Article 109 of the Labour Law to terminate employment relationships with an employed PWD in cases where an employee who previously performed the relevant work has been reinstated at work or the number of employees is being reduced. Consequently, the ECL believes that the Article 109 (2) should be deleted, but this point of view is not supported by the NGOs representing the PWD.

## **5 Success factors and transferability**

A transferable success factor is the **close cooperation between the Ministry of Welfare and the NGOs**. In preparation for this peer review representatives of the largest NGOs were interviewed. The organizations representing the largest number of people with various functional disorders indicated that they assessed the cooperation with the MoW as 'good' or 'very good'. NGOs are involved in different working groups for drafting policy planning documents and legislative enactments. As a result the feedback and suggestions expressed by the NGOs representing the PWD, a motivational programme and a social mentor service for PWDs were developed.

## 6 Key findings and conclusions

- The system for determining the loss of work-capacity (disability) is not transparent and understandable. A single, understandable, transparent system for determining the loss of work-capacity or remaining work-capacity should be established.
- A large proportion of PWD registered at PES are long-term unemployed. Registration with the PES is a free choice of a PWD. A PWD may receive all the services provided by PES according to the general procedure, as well as the services specifically targeted at PWDs. In 2017, a legislative basis for the provision of motivation programmes and social mentor services for PWDs was developed. As the provision of these services will start in 2018, the feedback on the results is not yet available. In order to evaluate the efficiency of other services provided by PES, a system of monitoring and supervision of services for PWD should be established for assessing whether PWD commence employment relations and continue to work in an open labour market after the receipt of PES services or working in subsidised workplaces.
- The policy planning documents focus on the diversification of services, taking into account the type of functional impairment. In the document certifying disability the type of the functional impairment is not indicated. Also, when registering with PES, it is not mandatory for a person to indicate a disability. Consequently, it is problematic for PES staff to deliver a PWD a targeted service. In order for the PES to provide a more targeted, PWD-oriented service, its staff should acquire additional expertise on issues related to the specific requirements of PWDs. The PES should involve additional experts, such as an ergotherapist, a psychologist and an occupational physician, at least in the regional structural units, while the PES staff should acquire specialist knowledge in the field.
- The employment rate among PWDs is relatively low. Only one in four PWDs is working. Employers express sufficient interest in subsidised workplaces, however, the practice shows that only in rare cases employers continue their employment relationship with the PWD after the end of the term of the subsidised workplaces. Employers and NGOs representing the disabled people have different views with regard to the prohibition to dismiss PWDs set forth in the Labour Law. Employers consider this Article of the Labour Law to be an impediment to the recruitment of PWDs. Likewise, there is no consensus on the introduction of a quota system. Tax incentives and changes in the procedure of payment of sickness benefit are some of the proposals that might motivate the employers to employ PWDs. The sickness benefit to the PWDs might be paid by the SSIA, like it is done in cases of occupational disease.
- The experience of other countries would be helpful in basically all the above described issues. At the moment there are three most important issues that need to be resolved:
  - How and which working abilities should be assessed in the case of a disability – the remaining or lost work-capacity?
  - How to motivate a PWD to stay in work or return to work?
  - How to motivate employers to retain a PWD or recruit a PWD?

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## Annexes

### Annex 1

Table 1. Registered Unemployment Rate of Persons with Disabilities

Year	Number of registered unemployed disabled persons	Proportion from all registered unemployed persons, %
October 2017	8 164	13.4
June 2017	8 626	12.9
2016	9 441	12.0
2015	8 343	10.2
2014	8 355	10.2
2013	9 254	9.9
2012	9 799	9.4
2011	9 939	7.6
2010	9 345	5.8

Source: Public Employment Service

### Annex 2

Table 2. Number of Population and Persons with Disabilities

Year	The number of people, thousands*	Persons with disabilities together**	Adult persons	I group	II group	III group	Disabled children
2017	1 950.1	186 362	<b>178 411</b>	26 120	84 296	67 995	7 951
2016	1 969.0	180 005	<b>172 082</b>	24 930	82 588	64 564	7 923
2015	1 986.1	174 060	<b>166 085</b>	23 812	80 526	61 747	7 975
2014	2 001.5	168 496	<b>160 572</b>	22 407	78 930	59 235	7 924
2013	2 023.8	162 788	<b>155 109</b>	20 472	77 597	57 040	7 679
2012	2 044.8	158 045	<b>150 493</b>	18 720	76 381	55 392	7 552
2011	2 074.6	153 333	<b>145 811</b>	17 304	75 350	53 157	7 522
2010	2 120.5	147 431	<b>139 947</b>	15 670	74 598	49 679	7 484

\*Source: the Central Statistical Bureau<sup>13</sup> (at the beginning of the year),

\*\*Source: the State Social Insurance Agency (data on December)

<sup>13</sup> The Central Statistical Bureau Database:  
[http://data.csb.gov.lv/pxweb/lv/Sociala/Sociala\\_\\_isterm\\_\\_iedz/IE0010m.px/table/tableViewLayout1/?xid=cdbc978c-22b0-416a-aacc-aa650d3e2ce0](http://data.csb.gov.lv/pxweb/lv/Sociala/Sociala__isterm__iedz/IE0010m.px/table/tableViewLayout1/?xid=cdbc978c-22b0-416a-aacc-aa650d3e2ce0).

### Annex 3

Table 3. Average Size of Pensions paid (euro)<sup>14</sup> per month

Year	Old-age pensions	Disability pensions
2017	289.40	164.14
2016	279.59	163.47
2015	273.40	164.42
2014	266.26	164.42
2013	259.20	163.29
2012	256.53	166.42
2011	253.53	170.52
2010	250.25	173.49

Source: The Central Statistical Bureau Database

### Annex 4

Table 4. Number of Employed Persons with Disabilities

Year	Disability group	Number of employed disabled persons			Number of disabled persons from 18 years of age	Proportion (%) of employed persons from number of disabled persons of the same group	Proportion (%) of employed persons from total employed disabled persons
		Total	Women	Men			
2014	Group I	934	385	549	22 407	4.16	2.43
	Group II	14 486	7 370	7 116	78 930	18.35	37.72
	Group III	22 983	11 735	11 248	59 235	38.80	59.85
	Total	38 403	19 490	18 913	160 572	<b>33.42</b>	100
2015	Group I	967	426	541	23 812	4.06	2.39
	Group II	15 142	7 639	7 503	80 526	18.80	37.37
	Group III	24 412	12 735	11 677	61 747	39.54	60.25
	Total	40 521	20 800	19 721	166 085	<b>24.40</b>	100
2016	Group I	1 019	415	604	24 930	4.09	2.38
	Group II	15 644	7 968	7 676	82 588	18.94	36.54
	Group III	26 150	13 772	12 378	64 564	40.50	61.08
	Total	42 813	20 658	20 658	172 082	<b>24.88</b>	100

<sup>14</sup> The Central Statistical Bureau Database.  
[http://data.csb.gov.lv/pxweb/en/Sociala/Sociala\\_\\_ikgad\\_\\_socdr/SD0030\\_euro.px/table/tableViewLayout2/?rxid=a79839fe-11ba-4ecc-8cc3-4035692c5fc8](http://data.csb.gov.lv/pxweb/en/Sociala/Sociala__ikgad__socdr/SD0030_euro.px/table/tableViewLayout2/?rxid=a79839fe-11ba-4ecc-8cc3-4035692c5fc8).

\*Source: Data from the State Social Insurance Agency on request (December)

## Annex 5

### Disability assessment

Annex 5 of Regulations No. 805 the 'Criteria for Assessment of Health Disorders and Functional Abilities' (2014) includes assessment tables of health disorders and functional abilities. In determining the severity of health disorders, the doctor-expert evaluates characterization of symptoms, physical examination data and laboratory instrumental investigation data. 'Light degree' refers to symptoms that are controlled by treatment or easy symptoms that are periodic, regardless of treatment, physical findings are normal or light physical finding is periodic and there is no change or periodically there is a slight change.

'Moderate degree' of health disorders is determined if easy symptoms persist despite continuous treatment or periodically persist moderate symptoms, despite continuous treatment physical finding is light or periodically moderate and slight changes or periodically moderate changes remain.

'Severe degree' of health disorders is determined in cases when, despite continuous treatment, moderate symptoms persist or periodically persist severe symptoms, physical finding is moderate or periodically severe and moderate changes or periodically severe changes remain.

'Very severe degree' of health disorders is determined in cases when, despite continuous treatment, severe symptoms persist or periodically persist very severe symptoms, physical finding is severe or periodically very severe and severe changes or periodically very severe changes remain.

The assessment table of functional abilities includes **function domains and categories** (according to the International Classification of Functioning, Disability and Health (known more commonly as ICF) - specific mental functions, sensory functions and pain, cardiovascular, haematopoietic, immune and respiratory system functions, nervous-musculoskeletal and motion-related functions, learning and knowledge use, communication, mobility, self-care, interaction and relationships with other people); **restriction level** (0 – no restriction, 1 - light restriction, 2 – moderate restriction, 3 – severe restriction and 4 – very severe restriction) and **notes** (indicating the information to be considered when evaluating the relevant function).

Performing an assessment of functional abilities and determining the degree of function or activity restriction (light, moderate, severe or very severe) a medical doctor-expert should take into account the expressiveness of the function or activity restriction, performance of the activity, the pace, energy consumed and the result achieved.

If there is no functional restriction or they are easy - do not cause significant problems to function, disability is not determined. Loss of general ability to work is up to 24 %.

Functional restrictions are **moderate** if functioning is substantially limited, but not so much that the restrictions would be severe (daily activities can be done independently, but at substantially slower pace or with more effort, or worse quality compared to normally accepted in the corresponding age group). **Group III disability** is determined, and **the loss of ability to work is in the amount of 25 % to 59 %**.

Functional restrictions are **severe** if functioning is substantially limited, restriction is higher than moderate, but is not very severe (most of daily activities can be done independently, but at substantially slower pace or with more effort, or worse quality compared to normally accepted in the corresponding age group, episodic need for help or surveillance). **Group II disability** is determined, and **the loss of ability to work is in the amount of 60 % to 79 %**.

Functional restrictions are **very severe** if functioning is very limited or practically impossible (need for permanent or frequent episodic help or surveillance in daily

activities). **Group I disability** is determined, and **the loss of ability to work is in the amount of 80 % to 100 %**.

In cases, when the assessment is conducted due to an accident at work or occupational disease the assessment of a disability group and/or loss of ability to work in percentage is carried out in accordance with the 'Criteria for Assessment of the Loss of Ability to Work in Percentage for Persons Suffered from Accident at Work or Occupational Disease, or a Disease, which is Related to the Rectification of the Consequences of the Accident at the Chernobyl Atomic Power Plant' set in Annex 6 of the Regulation No. 805 (2014).

Those criteria include assessment tables of health disorders (for example, tuberculosis, mental and behavioural disorders, nervous system diseases (trauma), diseases of eye and visual accessory organs (trauma), ear and parotid gland diseases (trauma), blood circulatory system diseases (trauma), respiratory system diseases (trauma) and others) and loss of ability to work in percentage. The document includes also two tables – Loss of ability to work (in percentage) depending on visual acuity reduction and Loss of ability to work (in percentage) depending on visual acuity reduction in case of trauma.

The loss of ability to work in the case of certain disorders is indicative and its final degree depends on several factors - does the person have other significant health problems, impact on everyday life activities, as well as the person's age, education, work experience, labour relations, competitiveness in the labour market and job forecasts.

If the loss of ability to work is in the range of 25 % to 59 %, the Group III disability is determined.

If the loss of ability to work is in the range of 60 % to 79 %, the Group II disability is determined.

If the loss of ability to work is in the range of 80 % to 100 %, the Group I disability is determined (Regulation 805, 2014).

Taking into account the provisions of the internal regulatory enactment, it may be assumed that the loss of work-capacity is determined by initially assessing the degree of the remaining working capacity (The State Medical Commission for the Assessment of Health Condition and Working Ability, 2016).

## Annex 6

### Comparison of Motivation Programmes and Social Mentor Services in General Cases and Cases Concerning Persons with Disabilities

Long-term unemployed with disabilities	Long-term unemployed
Participation in the motivation programme: costs per participant	
EUR 900	EUR 750
Costs of the social mentor services	
EUR 7 per hour, up to 40 hours per week	Up to EUR 150 (costs included in the cost of the motivation programme)
Duration of the motivation programme	
80 academic hours	If the unemployed person participates also in remunerated temporary social work activities - 120 academic hours, if not - 160 academic hours
Content of the event	
	The scholarship, up to a maximum of EUR 150, rate of an academic hour EUR 0,94, is paid in proportion to the duration of the participation (academic hours) in the motivation programme
Psychological assistance (individual and in groups), interprofessional meetings, motivational measures, support and consultations for solving individual social problems	Psychological assistance (individual and in groups), interprofessional meetings, motivational measures, support and consultations for solving individual social problems
Implementation of motivation programmes individually or in groups of not more than 12 persons, or in a group of no more than six persons, if persons with mental disorders are involved	Implementation of motivation programmes individually or in groups of no more than 12 persons
Catering, if necessary - transportation to the location where the motivation programme is being implemented and back, accommodation	Catering, if necessary - transportation to the location where the motivation programme is being implemented and back, accommodation
A social mentor provides psychological support during the motivation programme and helps to establish a permanent employment relationship after the completion of the programme.	A social mentor (recruitment assistant) provides psychological support and helps to establish a permanent employment relationship after the completion of the programme.
One social mentor provides a service to no more than 12 people, or no more than six people, if three of them have mental disorders.	One social mentor provides services to no more than six people.
The duration of such services may not exceed seven months, including the duration of the motivation programme itself	The duration of such services may not exceed three months after the completion of the motivation programme, or less, if the unemployed person is in permanent employment.

and the probationary period after the placement.

Services of a sign language interpreter.

The costs may not exceed EUR 11.60 per hour of provision of services, and the duration of such services may not exceed 40 hours of direct translation per week. The time spent to the location of provision of services and back is considered to be a part of the time of provision of services. The PES covers the transport costs incurred by the sign language interpreter.

The costs of other specialists involved in the provision of support to the unemployed PWD during the motivation programme.

The costs of other specialists involved in the support of one unemployed person during the period of implementation of the motivation programme may not exceed EUR 150.

Conditions for repeated participation

Not earlier than two years after the previous participation.

Not earlier than two years after the previous participation.

