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DG Employment, Social Affairs and Inclusion

Peer Country Comments Paper - Austria

PWD and capacity to work in Austria Between assessment of disability and assessment of work-capacity, between quota system and disability pension reform

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

Riga (Latvia), 26-27 April 2018



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1 Introduction

This paper has been prepared for the Peer Review on “Work-capacity assessment and employment of persons with disabilities” within the framework of the Mutual Learning Programme. It provides a comparative assessment of the policy example of the host country and the situation in Austria. For information on the host country policy example, please refer to the Host Country Discussion Paper.

The integration of persons with disabilities (PWD) in the labour market represents one of the biggest challenges for social and labour market policies. Health-impaired persons face a range of employment barriers, not least because recent changes in technology and globalisation trends have led to a shift towards highly-skilled jobs and jobs requiring strong mental health. Thus, there is a reduced demand for less qualified types of labour, in which PWD are over-represented. In addition, the recent economic crisis hit disadvantaged people hard and increased their inactivity- and unemployment rates.

The exclusion of PWD from the labour market causes both costs for the economy and social disadvantages for the persons concerned. It reduces effective labour supply while at the same time increased expenditure for social transfers represents a burden for public finances. Due to demographic changes and a stagnating labour force in most European countries in the coming years, strategies for improving employment rates of persons with health impairments are becoming increasingly important to secure both labour supply and economic growth. From the individual point of view, employment is a central factor for the social status and the personal identity of persons in working age. For the guarantee of equal opportunities and full participation in economic, cultural and social life, employment is of crucial importance (BMASK, 2012: 123f; OECD 2010).

2 Situation of people with disabilities in Austria

2.1 General national labour market context; challenges and opportunities for integration; reference to institutional and legal aspects

In 2017, in Austria there were 104,038 PWD entitled to special support (for the concept see below), thereof 60,903 (58.5%) were employed or self-employed. Since 2009 (66.7%) the share decreased due to the relatively stable number of employed PWD with at the same time increasing number of PWD entitled to special support. In comparison, the overall employment rate in the population 15-64 years amounted to 72.2% in 2017. In the framework of the quota system, in 2014 there were 19,113 employers obliged to employ PWD entitled to special support of which around 22 % fulfilled the quota. Of the related 106,883 work places, 64.4 % were occupied by PWD (BMASGK, 2018b; BMASK, 2017a; Statistik Austria, 2018).

In 2017 there were 75,545 registered unemployed with health constraints (22.2% of all unemployed), thereof 12,894 PWD (3.8% of all unemployed) in Austria. The unemployment rate of PWD amounted to 9.0 % (all unemployed: 8.5%). Unemployed with health constraints feature significantly longer unemployment spells (2016: 190 days vs. 139 days for all unemployed) (AMS, 2017; BMASGK, 2018c).

In the context of PWD and labour market integration, an essential institutional concept is that of PWD entitled to special support (*Begünstigte Behinderte*) who are entitled to occupational subsidies, special dismissal protection and special tax allowance. If employers employ PWD entitled to special support they can claim subventions and tax reliefs. However, the status as PWD entitled to special support does not inherently include an assessment of their work-capacity.

Work capacity is determined by the pension insurance association (PIA).¹ If there is (temporary) inability to work, the person is granted a (temporary) disability pension (*Invaliditätspension*) or – in particular if born after 1963 – is referred to medical rehabilitation (health insurance funds) or retraining (PES). For persons capable of work the PES provides occupational rehabilitation and support measures. Support measures for persons without any work-capacity (and who were not yet employed long enough to receive a pension) fall within the competence of the disability/social assistance programmes of the Federal States (Interview Luger).

The legal base for regulations on PWD is constituted by the law on employment of PWD, the law on federal PWD and the law on equal treatment of PWD. They contain regulations on employment of PWD, on PWD entitled to special support, on compensation levy if the quota is not fulfilled, on persons of trust for PWD and on protection against discrimination. The legal base for the work-capacity assessment is provided in the general social insurance law (BMSGK, 2018b). Disability and social assistance programmes of the Federal States are regulated in the corresponding laws of the Federal States.

2.2 Approaches for assessing and establishing work-capacity or disability

Related to the status as PWD entitled to special support as of 1.9.2010 the old standard rate decree according to the law on war victims was replaced by the assessment decree. The standard rate decree did not correspond to medical science levels anymore and did not adequately represent the requirements of today's working life. Thus, the Ministry for Social Affairs under involvement of experts and special interest groups elaborated new criteria for the assessment of the degree of disability. Important changes lie in the introduction of a functional instead of a diagnosis-related assessment as well as in the improvement in the assessment of mental disorders, which are of increasing importance. The functional impairment in the physical, cognitive or mental area or in the area of sensory perception is assessed by means of a medical expert's report at the service office of the Ministry for Social Affairs (SMS) (BMSGK, 2017a). The result of the assessment is a declaration stating the degree of disability (at least 50%). With the exception of the special tax allowance, all support measures for PWD entitled to special support relate to occupational support (see above).

In terms of work-capacity assessment there is the Competence Centre for Assessment/Health Road established at the PIA as a single assessment facility for PIA and PES: In case of an application for disability pension (which is primarily considered an application for rehabilitation) the medical service of the Competence Centre examines whether the person is incapable of work. It compiles medical, occupational and labour market-related expertise. It also conducts the medical assessment of the work capacity of persons with health constraints, for whom the PES expressed doubts on the ability to work. The assessment estimates to what extent the person is capable to work and contains recommendations for rehabilitation (BMSGK, 2018b).

2.3 Main actors involved (assessment and support)

In terms of labour market integration of PWD capable of work there exists a cooperation agreement between the PES and the SMS. In the sense of mainstreamed services for PWD they have equal access to all ALMPs, and thus, to services provided by the PES. These services also include external counselling and support facilities for diagnosis, qualification, job placement and monitoring of an employment (BMSGK, 2016: 62; BMSGK, 2017a: 95f; BMSGK, 2018a).

Related to the assessment of work-capacity, rehabilitation and support measures for those at least not permanently unable to work, the PIA is responsible for their assessment. At the health insurance funds there are Case Managers who support those

¹ Even for PWD this assessment will only be conducted if while being unemployed the PES has doubts about a person's work capacity or if the person applies for disability pension (*Invaliditätspension*).

with need for medical rehabilitation in the process of recovery. For retraining and labour market integration the PES provides occupational rehabilitation, counselling and support measures. There is also the possibility of compiling a perspective plan at the vocational education and rehabilitation centre (BBRZ) (BMASGK, 2018b; Interview Luger).

At the same time special disability-specific measures and tailor-made interventions are provided by the SMS. Integration into employment features prominently in the National Action Plan on Disability 2012-2020. PWD and their employers are offered subsidies, support and counselling structures – among them youth coaching, production school, vocational training assistance, work assistance and job coaching. Additional support measures for employers consist of wage subsidies, adaptation of working places and tax reliefs, etc. The offices of the SMS also take the applications for the assessment of the status as PWD entitled to special support (BMASK, 2017a).

Support measures for persons without any work-capacity fall within the competence of the disability/social assistance programmes of the Federal States.

3 Assessment of the policy measures

3.1 Similar or different to host country example (see Calite-Bordane, 2018), and why?

As in Latvia, supporting the transition of persons with health constraints and/or PWD from inactivity status and receipt of pensions or other benefits to taxpayers plays an important role in Austria. One example is the reform of the disability pension system in 2014 which abolished temporary pensions for persons born after 1963 and enforced the principle of rehabilitation before pension (see below).

On the Latvian debate whether there should be an assessment of the loss or the remaining work-capacity of PWD, and who should determine it: In Austria, on the one hand there is the assessment of the status as PWD entitled to special (occupational) support (declaration on the degree of disability). On the other hand there is the assessment of work capacity based on labour and social insurance laws (see above).

Due to the low employment rates of PWD in Latvia (24.9 % in 2016) it has been suggested to set quotas in public administration, thus providing a good example for the private sector. In Austria, the law on employment of PWD obligates all employers to employ one PWD entitled to special support per 25 employees. For each quota-place not filled a compensatory levy has to be paid. An amendment of the law increased the levy for larger companies with more than 100 employees from 2011.² The levy is collected in a special fund, which finances support measures for PWD and their employers for occupational and social rehabilitation and integration.

In Latvia, the employers' confederation has encouraged amendments to the Labour Law by excluding the article protecting PWD in cases of company dismissals to facilitate hiring. Also in Austria many employers argued that the special dismissal protection represents a barrier to hiring PWD entitled to special support (see for example BMASK, 2012: 8). As a consequence, from 2011 in the case of new employment contracts the special dismissal protection comes into effect only after a qualifying period of four years (before it was already after six months) (BMASK, 2017a: 106).

In both countries similar to any other person who is registered with the PES, a PWD has the right to receive any support defined by law. At the same time there are separate measures only available to PWD.

The Latvian Ministry of Welfare has set a goal to take measures aimed at the integration of persons with disabilities into the labour market, taking into account the type of functional disorders. It is planned to increase the number of people employed in

² As of 2018 per month/per non employed PWD: companies ranging from 25-99 employees: EUR 257; 100-399 employees: EUR 361; 400+ employees: EUR 381.

subsidised workplaces. In Austria, the PES-support for (re)integrating disadvantaged groups into the labour market includes integration subsidies (paid to employers), socio-economic enterprises and non-profit employment projects (BMASK, 2017a: 102). Additionally – co-funded by the SMS, the Ministry and/or the Federal States – offers subsidised workplaces for PWD in social enterprises (BMASK, 2016: 20).

3.2 What specific policies have proved more effective? Comparative examples of policies (effectiveness, difficulties and constraints, success factors and transferability)

During the last decades an increasing challenge was represented by the inflow into the disability pension system. This is mainly a problem related to persons in their 40's and 50's with an increasing share of persons with mental disorders. To combat this development, temporary pensions were abolished for persons born after 1963 and the principle of rehabilitation before pension was enforced. In case the medical assessment shows that incapacity for work will last temporarily for at least six months, a rehabilitation benefit by the sickness fund or a retraining benefit by the PES is granted. All rehabilitation measures should improve the health status and should secure the reintegration into the labour market (BMASGK, 2018b).

In fact,

- the disability reform introduced a major barrier to the (re)granting of disability pensions; the reduced inflow is based both on less applications (possibly also due to a deterrence effect) and an increased refusal rate of applications.
- However, several data suggest that so far the majority of persons covered by the reform receive rehabilitation benefits instead of disability pension (and some are on retraining), but do not work.
- Another lesson learned is that the inclusion of persons with temporary pensions granted already before the reform appears to be even more difficult as they were already far removed from the labour market.
- From an administrative point of view complexity arises from the distribution of tasks amongst three institutions (PIA, health insurance funds, PES) with different programmes (Fuchs, 2016: 5; Rechnungshof, 2017).

A counselling and secondary prevention service for employed and unemployed persons with disabilities, chronic diseases or other health problems – fit2work – was introduced in 2011. The target is to preserve or restore ability to work and to enable a rapid occupational (re)entry by early intervention. Thus, sickness-related absences from work, future inability to work and a premature withdrawal from the labour market should be avoided. Fit2work is coordinated by the SMS in cooperation with partner organisations. The services provide preventive counselling and case management for individuals on sickness leave and those unemployed and counselling for enterprises related to health and work capability management (BMASK, 2017a: 109).

Overall, we can report that:

- individual counselling within fit2work seems to match the needs of employees and those unemployed with health impairments. There is a somewhat promising performance in supporting people to keep their jobs or return to work.
- Though, participation in preliminary counselling occurs relatively late (an invitation letter by the health insurance fund is sent only after six weeks of sickness leave), when sickness leave or unemployment have already intensified.
- Furthermore, only a small part of persons invited participated in the programme. However, fit2work is also significantly accessed through GPs, the PES, or self-referrals. Many clients are not on sick leave at the time of service use, but unemployed.

- Company counselling is now reaching enterprises to a significant degree (OECD, 2015: 104ff; Statistik Austria, 2015: 20f).

As to the potential transferability of these kind of measures to other countries it has to be kept in mind that the decision making process in Austria is very special due to the intensive cooperation with the social partners which has both advantages and disadvantages.

In recent years Austria implemented several programmes and measures related to the interface between education, training and labour market, which do not only target at youth with disabilities and health impairments as well as at PWD between 15 and 64 years but also at several groups of disadvantaged youth. The main targets are vocational education and primal integration. With the career management in the framework of the Network for Occupational Assistance (NEBA), youth with functional disorders as well as PWD are accompanied during sequential integration steps – Youth Coaching, Integrated Vocational Education, Youth Work Assistance, Job Coaching and qualifying projects – and continuously transferred into employment (BMASK, 2017a: 98).

A general problem in the occupational support of PWD, once the work capacity is assessed, still lies in the distribution of competences between the Federal level (for those capable of work; Labour and Social Insurance laws) and the Federal States (for those incapable of work; handicapped aid and social assistance). This impedes efficient transitions and cooperation in supporting PWD (BMASK, 2017a: 101; Interview Luger).

3.3 Impact of work capacity assessment and support received

The centrally compiled work capacity assessments at PIA are binding both for PES and PIA. The assessments were fastened as well as made cheaper and more transparent. The former multiple assessments repeatedly led to different interpretations and uncertainties (BMASGK, 2018b).

The amendment of the law on the employment of PWD in 2011 increased the compensatory levy in the framework of the quota-system for larger companies with more than 100 employees and extended the qualifying period for the special dismissal protection of PWD (see above). However, the expected positive employment effects failed to appear (BMASK, 2017: 106). According to available empirical data, quota systems only lead to small net employment gains. Already employed persons who become disabled and can be included are more likely to be employed continuously, while quota systems provide only small incentives to hire PWD (OECD, 2010).

Many employers consider sanctions only as minor additional non-wage labour costs and the exclusive costs related to fees are not central in hiring decisions of PWD (Fietz et al., 2011: 68). For governments employment quotas represent relatively low cost programmes, which are easily financed. The employment of PWD is either supported by the fulfilment of the quotas or by employment programmes financed by the fees (OECD/Europäisches Zentrum, 2003: 231; Sywottek, 2011: 24). However, the demographic change points to the "inherent ambivalence of the quota system". If employees increasingly reach the disability status because of their higher average age and related health impairments, employers have to pay fewer fees. As a consequence less money is available for the creation of new employment opportunities for PWD while expenditures for permanent wage subsidies increase (Deutscher Bundestag, 2008: 12; Sywottek, 2011: 25).

Related to the assessment of future progression policy development future challenges in terms of labour market integration of PWD relate to industry/work 4.0, digitalisation and automation (BMASK, 2017a) as there might be a reduced demand for less qualified types of labour, in which PWD are over-represented (OECD, 2010).

So far, in Austria PWD were largely at risk to lose income replacing benefits (e.g., lifelong family allowance, survivor pension) when participating in a work trial. Thus, the

further development of permeability between different statuses is essential (BMASK, 2017a).

To accommodate the special labour-market related need for support, the labour market targets for the PES indicated by the Ministry for Social Affairs were amended in December 2017. In addition to the group of persons with health constraints (since 2010) PWD are now also explicitly mentioned (BMASGK, 2018a: 1f).

4 Questions on particular aspects of the host country

- What is the specific difference between assessing the loss of work-capacity and assessing the remaining work-capacity? Is there – apart from a potential psychological factor – an objective reason for this kind of distinction, both in Latvia and in other countries?
- Why is the quota system only planned for the public sector?
- What is the regulation in terms of special dismissal protection and what changes are proposed by the employers?
- What are the main reasons for the low employment rate of PWD?

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Annex 1 Summary table

The main points covered by the paper are summarised below.

Situation of people with disabilities in Austria

- 59 % of PWD entitled to special support are employed or self-employed (overall employment rate 15-64: 72.2%)
- 22 % of employers fulfil the quota; of related 107,000 work places, 64 % are occupied by PWD
- Unemployment rate of PWD amounts to 9.0 % (overall: 8.5%)
- Unemployed with health constraints feature significantly longer unemployment spells

Assessment of the policy measure

- Reform of disability pension system: abolishment of temporary pensions for persons born after 1963; enforcement of "rehabilitation before pension"
- Introduction of a counselling and secondary prevention service – fit2work – for employed and unemployed persons with disabilities, chronic diseases or other health problems
- Measures related to the interface between education, training and labour market
- Amendment of quota system and of special dismissal protection did not lead to higher employment rate of PWD

Questions on particular aspects of the host country

- What is the specific difference between assessing the loss of work-capacity and assessing the remaining work-capacity?
- Why is the quota system only planned for the public sector?
- What is the regulation in terms of special dismissal protection of PWD and what changes are proposed by the employers?
- What are the main reasons for the low employment rate of PWD?

Annex 2 Example of relevant practice

| | |
|-------------------------|--|
| Name of the practice: | fit2work (www.fit2work.at) |
| Year of implementation: | 2011, provided for by the Work-and Health Act (AGG 2010) |
| Coordinating authority: | SMS on behalf of the steering committee (chair: Ministry for Social Affairs; members: Ministry of Finance, Ministry for Economy, social insurance institutions [PIA, health insurance, accident insurance], PES) |
| Objectives: | Preserve or restore ability to work and to enable a rapid occupational (re)entry by early intervention; sickness-related absences from work, future inability to work and a premature withdrawal from the labour market should be avoided |
| Main activities: | Individual counselling: preventive counselling and case management for individual sick-listed employees and unemployed Company counselling: counselling and educational advertising of enterprises related to health and work capability management |
| Results so far: | Overall, individual counselling within fit2work seems to match the needs of employees and unemployed with health impairments. There is a somewhat promising performance in supporting people to keep their jobs or return to work. Though, participation in preliminary counselling occurs late (invitation letter by the health insurance fund is sent only after six weeks sickness leave), when sickness leave or unemployment have already intensified. Furthermore, only a small part of persons invited participated in the measure. However, fit2work is also significantly accessed through GPs, the PES, or self-referrals. Many clients are not on sick leave at the time of service use, but unemployed. Company counselling is now reaching enterprises to a significant degree. |

