



# Striving for an inclusive labour market in Bulgaria

Positive actions and reasonable accommodation to facilitate hiring and employment of persons with disabilities involving employers and employer initiatives

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# **Striving for an inclusive labour market in Bulgaria**

Positive actions and reasonable accommodation to facilitate hiring and employment of persons with disabilities involving employers and employer initiatives

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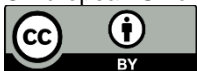
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## 1 Executive summary

### 1.1 Support and incentives directed at employers to promote the employment of persons with disabilities, including guides on good practice, websites and advice services

Employment quotas for persons with disabilities were introduced back in 1987 by the Labour Code, and then in 2019 by the Persons with Disabilities Act. The latter legislation provides for a monitoring mechanism and sanctions for non-implementation. However, data and analysis show that employment quotas do not seem to be an effective measure for promoting the employment of persons with disabilities. Although a complicated procedure for imposing the quota was introduced in 2019, there is no evidence that quotas are being implemented in practice by the majority of employers. According to the only available state analysis from 2021, employers have too high, and often inadequate, requirements for the job applicants, and they provide inadequate or inconsistent working conditions considering the fact that the job position is for a person with permanent disability. On the other hand, there is sometimes a lack of interest from persons with disabilities.

Employment promotion measures under the Employment Promotion Act provide for wage subsidies under conditions which are proving to be ineffective and unpopular among both persons with disabilities and employers. The Employment Agency has not been analysing this phenomenon, and made a quantitative report about the implementation of these measures only in 2021.

Employers that receive funding for reasonable accommodation from the Agency for Persons with Disabilities have the right to be reimbursed from the state budget for 30 % of social security contributions, compulsory health insurance and supplementary compulsory pension insurance for employees with disabilities. Tax relief (a reduction in the employer's annual financial figures, with the payment of 12 salaries to persons with disabilities), as provided for in the Corporate Income Tax Code, together with the reimbursed social security and health contributions, are not a sufficient incentive for employers in the open labour market.

A reasonable accommodation duty for employers is provided for in several Bulgarian laws. However, there are no detailed legal instructions on the provisions of this duty, nor is there any public data available about its implementation.

This research found only three guides for employers of persons with disabilities. The National Federation of Employers of Disabled Persons issued *Let's employ a person with disability* in 2011.<sup>1</sup> The second guide, issued by the Federation subsequently, is called *Employing Persons with Disabilities*.<sup>2</sup> The third guide was issued in 2018 by Ernst & Young Global Limited, and is called *Equality at the workplace for persons with functional differences: Handbook for Employers*.<sup>3</sup> All three guides (to different extents)

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<sup>1</sup> National Federation of Employers of Disabled Persons (2011), *Let's Employ a Person with Disability*, Sofia, available in Bulgarian at: <http://www.nsrhu.bg/documents/RABOTODATEL-naruchnik-A5-3.pdf>.

<sup>2</sup> National Federation of Employers of Disabled Persons, *Employing Persons with Disabilities*, available in Bulgarian at: <http://www.nsrhu.bg/documents/NAEMANE-HU.pdf>.

<sup>3</sup> Ernst & Young Global Limited (2018), *Equality at the workplace for persons with functional differences: Handbook for Employers*, Sofia, available in Bulgarian at: [https://jambacareers.at/wp-content/Employer%20toolkit\\_Abilities\\_JAMBA\\_EY.pdf](https://jambacareers.at/wp-content/Employer%20toolkit_Abilities_JAMBA_EY.pdf).

provide advice on the business benefits of employing persons with disabilities, how to open up job positions for persons with disabilities in practice, the development of recruitment policies, preparing and conducting interviews, the provision of universal design and introductory training, managing work performance and ensuring the career development of employees with disabilities.

This research found no evidence of the effectiveness of these measures.

## **1.2 Support and partnerships available to employers to assist them in making reasonable accommodations**

The only support that employers in the open labour market can receive in making reasonable accommodation is funding from the Agency for Persons with Disabilities. This funding is granted for providing access to the workplace (up to EUR 5 000); for the adaptation of individual workstations (up to EUR 5 000 each); for equipment at the workplace (up to EUR 5 000 each); and for qualification and training (up to EUR 500 per employee with permanent disability). However, the procedure for applying is very complicated, the funds are very limited, the employees (beneficiaries) need to be medically assessed as having at least a 50 % degree of disability and employers are obliged to hire persons with disabilities for a period of at least three years after they have received the funding. This is why the scarce implementation data shows that very few workplaces are accommodated for persons with disabilities, the majority of posts being with state and municipal authorities.

Logistical, informational, technical or organisational support for employers is not available. Research shows<sup>4</sup> that employers are not even aware of the existing financial support and do not benefit from it.

This research did not identify any partnerships for coordinated support for employers to make reasonable accommodations.

There is no evidence of the effectiveness of the support available to employers to make reasonable accommodations.

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<sup>4</sup> Institute for Study of Change foundation (2019), *Analytical desk research report – Research on the experience of EU member states, practices, models and approaches in inclusion of persons with disabilities in employment and ensuring a set of measures and methods for the promotion of hiring and retaining persons with disabilities by employers*, Sofia, pp. 78-84, <https://studyofchange.com/en/desk-research/>.

### **1.3 Illustrative examples of good employer practice for providing reasonable accommodations for persons with disabilities**

This research did not identify any good practice guides or other sources of information regarding reasonable accommodation directed at employers.

### **1.4 Recommendations**

State institutions such as the Agency for Persons with Disabilities, as well as private employers and NGOs of and for persons with disabilities, should develop guidelines for ensuring reasonable accommodation for persons with different types of disabilities relevant for different ages, genders and professions. The guidelines should cover the phases of advertising of vacancies, the provision of information to job applicants, the interview process, and factors taken into account when deciding who to appoint. They should contain advice on how to provide introductory training, how to manage work performance and how to ensure the career development of the employees with disabilities.



## **2 Support and incentives directed at employers to promote the employment of persons with disabilities, including guides on good practice, websites and advice services**

### **2.1 Employment quotas**

Employment quotas are currently provided for in two main legislative acts in Bulgaria – the Labour Code and the Persons with Disabilities Act.

According to the Labour Code, every employer who has hired over 50 employees must reserve and annually advertise job positions appropriate for persons with various types and levels of disabilities for 4 % to 10 % of all positions.<sup>5</sup> The specific share or percentage of the job positions that should be reserved for persons with disabilities in each economic sector has been set out in an ordinance issued by the Minister of Labour and Social Policy and the Minister of Healthcare.<sup>6</sup> This obligation for employers does not oblige them to actually employ persons with disabilities, but they must offer them job positions. This means assigning current employees or new recruits with disabilities to jobs that are suitable for their altered or reduced working capacity. Assignments are based on official indications by the relevant medical administrative bodies that certify and assess people with disabilities.<sup>7</sup> Setting aside jobs as suitable for accommodating people with disabilities is not equivalent to actually hiring the same number of people as there are jobs. Jobs suitable for accommodating employees who have a disability may be taken by people without disabilities if there are not enough people with disabilities to take them all. In such cases, as soon as there is a new recruit with a disability and with an indication that they require ‘accommodating’, a person without a disability with a job suitable for accommodation will lose their job, and it will be taken by the new recruit. The employer is obliged to appoint a candidate with disability who is qualified and cannot decline to appoint him/her on the ground that a person without disability is already employed in the function. In that sense, jobs set aside for accommodating are placed at the disposal of people with disabilities with an official ‘accommodating’ indication. The employer has no duty to actually find people with disabilities to be the job holders.

Under the Labour Code, there is no explicit provision to the effect that these jobs may be taken by people outside the employer’s organisation, including people who were not previously employed. However, this is the situation in practice. Where a job applicant with a disability is qualified to take an adapted job, they will be hired if there is such a position.

Until 2019, out of all job positions reserved for persons with disabilities (4 % to 10 %) the employer had to reserve not less than 50 % for persons with permanent disabilities in accordance with the Integration of Persons with Disabilities Act, which was revoked in 2019, when a new Persons with Disabilities Act was adopted.<sup>8</sup> The employer was

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<sup>5</sup> Labour Code (came into force 01.01.1987), Art. 315 (last amended in 2010), <https://www.lex.bg/bg/laws/ldoc/1594373121>.

<sup>6</sup> Ministry of Labour and Social Policy and Ministry of Healthcare, Ordinance RD-07-1 of 2 February 2012 for the identification of posts appropriate for persons with reduced working capacity (came into force on 15 May 2012), <http://www.lex.bg/bg/laws/ldoc/2135775738>.

<sup>7</sup> Labour Code, Art. 314.

<sup>8</sup> Integration of Persons with Disabilities Act (came into force on 1 January 2005, revoked on 18 December 2018), Art. 27, <https://lex.bg/bg/laws/ldoc/2135491478>. Under this law a ‘person with permanent disability’ is a ‘person who, as a result of anatomical, physiological or mental

obliged to inform employment departments of these job positions and to advertise the vacant ones 14 days after they appeared.

The Persons with Disabilities Act, which came into force on 1 January 2019, introduced a quota to ensure the employment of persons with permanent disabilities in the active labour market. It obliges employers with 50 to 99 employees to hire one person with permanent disability and employers with 100 or more employees to ensure that 2 % of the total number of employees are persons with permanent disability.<sup>9</sup> The job positions, as determined under the Labour Code, are not taken into account when reporting on the implementation of this quota.<sup>10</sup> Accommodated positions under the Labour Code will be reserved for existing employees (who might become disabled). The Persons with Disabilities Act quota requires new employees to be hired. For newly established enterprises, the quota obligation occurs in the year following their year of establishment.<sup>11</sup>

### **Employers exempt from the quota obligations**

Employers are exempt from the quota obligation under the Persons with Disabilities Act until the end of each calendar year in the case of: (1) the presence of specific factors in the working environment hindering the employment of people with permanent disabilities; (2) a lack of people with permanent disabilities referred by employment departments or by labour intermediaries licensed to carry out labour mediation.<sup>12</sup> The abovementioned circumstances need to be certified by the General Labour Inspectorate, an executive agency.<sup>13</sup>

The specific factors in the working environment should be established according to the number of workers and employees who: (1) perform work under the conditions of the first or second category of work; (2) work under the conditions of established reduced working hours or have the right to additional paid annual leave according to Article 156(1)(1) of the Labour Code.<sup>14</sup> These factors are described in writing by the employers, together with the occupational health authorities.<sup>15</sup> These specific factors are checked regularly by the General Labour Inspectorate according to its internal rules.<sup>16</sup>

Employers apart from those mentioned above that apply alternative measures for the employment of people with permanent disabilities, as determined by Articles 30-32 of

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impairment, has permanently reduced capacities to perform activities in the way and at the level of a healthy person and for whom the medical assessment authorities have estimated a level of reduced working capacity of 50 percent or more'.

<sup>9</sup> Persons with Disabilities Act (came into force on 1 January 2019), Art. 38(1), <https://www.lex.bg/bg/laws/ldoc/2137189213>.

<sup>10</sup> Persons with Disabilities Act, Art. 38(2).

<sup>11</sup> Persons with Disabilities Act, Art. 38(7) (came into force on 1 January 2021).

<sup>12</sup> Persons with Disabilities Act, Art. 38(3) (came into force on 1 January 2021).

<sup>13</sup> Persons with Disabilities Act, Art. 38(4).

<sup>14</sup> Persons with Disabilities Act, Art. 38(8) (came into force on 1 January 2021).

<sup>15</sup> Regulations for Implementation of the Persons with Disabilities Act (came into force 1 April 2019), Art. 29(2), <https://lex.bg/bg/laws/ldoc/2137192229>.

<sup>16</sup> Regulations for Implementation of the Persons with Disabilities Act, Arts. 27-28; [Internal Rules for Specialised Inspections by the Executive Agency 'General Labour Inspectorate' of the implementation of the quota for the employment of persons with disabilities](#), adopted on 14 June 2019.

the Regulations for Implementation of the Persons with Disabilities Act, are also exempt from the quota obligation.<sup>17</sup> The alternative measures comprise three options:

1. The employer may purchase from specialised enterprises or cooperatives of persons with disabilities the goods produced or traded by them, or the services provided by them, for the period of non-fulfilment of the quota.<sup>18</sup>
2. The employer may also purchase directly from people with disabilities who are carrying out independent economic activity (i.e. self-employed) the goods produced or traded by them or the services provided by them for the period of non-fulfilment of the quota.<sup>19</sup>
3. The employer may purchase from class A social enterprises, which meet the conditions under Article 7, items 1, 2 and 4, of the Law on Social and Solidarity Economy Enterprises<sup>20</sup> and/or class A+ social enterprises, registered under

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<sup>17</sup> Persons with Disabilities Act, Art. 38(5).

<sup>18</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 30(1).

<sup>19</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 31(1).

<sup>20</sup> Law on the Social and Solidarity Economy Enterprises (came into force on 2 May 2019), <https://lex.bg/bg/laws/ldoc/2137187968>. According to Art. 7, a class A social enterprise is any social enterprise which:

1. carries out social activity, which produces social added value, determined according to a methodology issued by the Minister of Labour and Social Policy;

2. is managed transparently with the participation of the members, the workers or the employees in making decisions according to a procedure established in the constituent contract, the statute or another structural document;

4. not less than 30 per cent and not less than three of whose employees, as of the date of the occurrence of the employment legal relationship, are:

a) persons with permanent disabilities;

b) long-term unemployed persons who are entitled to monthly social assistance in accordance with the Social Assistance Act and the regulations for its implementation;

c) persons under the age of 29 who have no previous professional experience;

d) persons accommodated outside the family by the order of Art. 26 of the Child Protection Act, including after the termination of their placement;

e) unemployed persons over 55 years of age who are registered at the local Employment Department;

f) persons who raise children with permanent disabilities and receive benefits under Art. 8e of the Family Benefits for Children Act;

g) persons who have served a sentence of imprisonment for a term of not less than 5 years, if the end of the sentence has occurred in the last three years prior to employment;

h) persons addicted to alcohol or drugs who have successfully completed a treatment or psychosocial rehabilitation programme in the last two years prior to employment, certified by a document issued by the persons/organisations that carried out the treatment or the psychosocial rehabilitation;

i) homeless persons;

j) foreigners who have received protection in the Republic of Bulgaria under the Asylum and Refugees Act during the last three years prior to their employment;

l) persons who have received the status of special protection under the Anti-Trafficking in Human Beings Act;

m) persons who have suffered from domestic violence within the meaning of the Domestic Violence Protection Act.

According to Art. 8, a class A+ social enterprise is any enterprise which meets all the conditions under Art. 7 or the conditions for a class A social enterprise and one of the following additional conditions:

1. the social added value is realised entirely within the administrative borders of municipalities which for the previous year have had an unemployment rate equal to or higher than the national average compared to the available statistical data as of the date of submission of the application;

Article 8, items 1 and 3, of the same law, the goods produced or traded by them or the services provided by them for the period of non-fulfilment of the quota.<sup>21</sup>

In all three options, the employer can prove the cost only with primary payment documents. The monthly amount of the funds for the purchase of the goods or for the use of the services should not be less than twice the monthly amount of the minimum wage established for the country for the respective calendar year, for each unoccupied job for a person with permanent disability, until the moment of fulfilment of the quota.<sup>22</sup>

### **Procedure for implementing quota obligation**

Every employer is obliged to draw up a list of all job positions determined for persons with disabilities under the quota by the end of January each year. The list should be kept in the company and should be presented to the inspecting authorities.<sup>23</sup> In order to fulfil the quota obligation under the Persons with Disabilities Act, the employer is obliged to notify the local employment departments of the job vacancies and of the employees he/she needs, as well as the qualifications and professional skills required, by 31 March each year.<sup>24</sup> Within three months from the notification, the employer is obliged to employ people with permanent disabilities who meet the requirements for the job vacancy.<sup>25</sup> Before that, within seven days after a person with permanent disabilities is referred to the employer by the employment department, the employer is obliged to notify the department of the result.<sup>26</sup> The employer is also obliged to notify the respective local employment department that he/she has appointed a person/persons with permanent disabilities according to the quota<sup>27</sup> as well as about all changes in the information he/she submitted to the department up to 31 March each year.<sup>28</sup> While implementing the quota obligation, the employer has the right to make use of labour mediation services for hiring employees and needs to submit an explicit application for that to the local employment department.<sup>29</sup>

The local employment departments should submit a report every three months to the General Labour Inspectorate about all applications and notifications by employers and the results of them. The reports should contain information about the number of job vacancies advertised by employers, the number of persons with disabilities referred to employers, the number of employed persons with disabilities, the number of unoccupied job vacancies and the number of job vacancies for which employers asked to use labour mediation services.<sup>30</sup>

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3. at least 30 of the employees are persons under Art. 7, item 4, and have worked without interruption in the enterprise during the last 6 months.

<sup>21</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 31(1).

<sup>22</sup> Regulations for Implementation of the Persons with Disabilities Act, Arts. 30(2), 31(2) and 32(2).

<sup>23</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 25(2) (came into force on 6 April 2021).

<sup>24</sup> Persons with Disabilities Act, Art. 41(1), Regulations for Implementation of the Persons with Disabilities Act, Art. 22.

<sup>25</sup> Persons with Disabilities Act, Art. 41(2).

<sup>26</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 22(4).

<sup>27</sup> Persons with Disabilities Act, Art. 41(3).

<sup>28</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 22(5).

<sup>29</sup> Persons with Disabilities Act, Art. 41(4), Regulations for Implementation of the Persons with Disabilities Act, Art. 22(1)(2).

<sup>30</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 24.

## **Who are the persons eligible for employment with employment quotas?**

The quota under the Labour Code defines persons with disabilities in general as eligible for employment. As the Persons with Disabilities Act is the general law about persons with disabilities, it provides the definition of 'persons with disabilities' as persons with physical, mental, intellectual and sensory disabilities who, when interacting with their environment, could have their full and effective participation in public life hindered by that environment.<sup>31</sup>

The quota under the Persons with Disabilities Act defines persons with permanent disabilities as eligible, and it defines 'persons with permanent disabilities' as persons with permanent physical, mental, intellectual and sensory impairments who, in interaction with their environment, could have their full and effective participation in public life hindered by that environment, and to whom medical assessment has established the type and degree of disability or degree of permanently reduced working capacity at 50 % or over.<sup>32</sup>

## **Employers that comply with the employment quota and persons with disabilities employed within the quota**

The exact percentage of employers that comply with the employment quota is not available in state reports. According to data from the Agency for People with Disabilities, in 2016 (no data are available for recent years), 32 859 job positions were set aside; 18 756 of them were for people with permanent disabilities; 11 083 positions were actually occupied by people with disabilities; 11 829 were occupied by people with permanent disabilities; 5 381 positions set aside were advertised as vacant.<sup>33</sup> These data are incomplete and unreliable because, as the Agency explicitly recognises in its 2016 report, only 65 out of 98 regional employment departments supplied data; not all employers necessarily informed their employment department (although 2 346 did); there are no data on the number of employers who were subject to this duty; and the numbers stated for occupied and vacant positions do not seem to match up with the overall number of accommodated positions. 'Accommodated' here means made suitable for persons with reduced or altered working capacity.

In 2019, in implementing their quota obligation for hiring persons with disabilities,<sup>34</sup> 1 047 employers sought the assistance of the Employment Agency to find suitable candidates with disabilities. They advertised 2 439 vacancies, to which the employment departments referred 835 people, of whom only 86 persons with disabilities were hired.<sup>35</sup>

The 2020 Annual Report of the General Labour Inspectorate (its most recent annual report) mentions that the agency carried out 2 297 inspections in 2020, with a focus on verifying the fulfilment of the quota obligations of employers with 50 or more employees. Some 58 employers have been identified as exempt from quotas due to

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<sup>31</sup> Persons with Disabilities Act, Additional provisions, para. 1(1).

<sup>32</sup> Persons with Disabilities Act, Additional provisions, para. 1(2) (came into force on 1 January 2021).

<sup>33</sup> Agency for Persons with Disabilities, *2016 Annual Report*, p. 10, <http://ahu.mlsp.government.bg/portal/document/51085>.

<sup>34</sup> Persons with Disabilities Act, Art. 38(1).

<sup>35</sup> Employment Agency, *2019 Annual report*, pp. 21-22, <https://www.az.government.bg/pages/otchet-za-deinostta-na-az/>.

the specific factors of their working environments. During the year, due to non-fulfilment of quotas, 238 employers paid compensation fees amounting to EUR 275 934 (BGN 551 869).<sup>36</sup>

As of 31 December 2020, 16 095 unemployed persons with permanent disabilities were registered with the employment departments. Of those, 8 683 were employed – of which 6 274 on the open labour market, 1 102 under employment programmes, 408 under Employment Promotion Act measures and 899 under Operational Programme for Human Resources Development (OPHRD) projects. During 2020, a total of 574 employers sought the assistance of the Employment Agency to find suitable candidates, declaring 1 778 job vacancies suitable for people with permanent disabilities; 349 people were referred to those employers and 45 people with disabilities were employed.<sup>37</sup>

In 2021, 549 employers sought the assistance of the Employment Agency to find suitable candidates. They advertised 1 807 job vacancies, to which the employment departments referred 321 persons, of whom only 44 persons with disabilities were hired.<sup>38</sup>

According to the Employment Agency, the large proportion of people with permanent disabilities among the long-term unemployed shows that businesses in the active or open labour market are still not flexible enough to attract this segment of the workforce to fill the gap in such sectors as administrative services, information creation and dissemination and creative products, telecommunications, etc., despite the relatively good educational and qualification characteristics of a large proportion of registered persons with disabilities.<sup>39</sup> The number of employed persons with disabilities equates to only 4.0 % of the total number of unemployed persons registered with the employment departments who were employed in 2021. A total of 9 095 people with disabilities have been employed in 2021.<sup>40</sup>

The numbers of persons with disabilities who were involved in employment during 2020 and 2021 are presented in the table below:<sup>41</sup>

Type of employment	2020	2021
Active/open labour market	6 274 persons	5 869 persons
Employment promotion programme	1 102 persons	1 513 persons
Employment promotion measures	408 persons	367 persons
EU-funded projects	899 persons	1 346 persons

<sup>36</sup> Executive Agency 'General Labour Inspectorate', *2020 Annual report*, p. 16, <https://www.gli.government.bg/sites/default/files/upload/documents/2021-04/godishen-doklad-2020.pdf>.

<sup>37</sup> Employment Agency, *2020 Annual report*, p. 18, <https://www.az.government.bg/pages/otchet-za-deinostta-na-az/>.

<sup>38</sup> Employment Agency, *2021 Annual report*, p. 21, <https://www.az.government.bg/pages/otchet-za-deinostta-na-az/>.

<sup>39</sup> Employment Agency, *2021 Annual report*, p. 22.

<sup>40</sup> Employment Agency, *2021 Annual report*, p. 22.

<sup>41</sup> Employment Agency, *2021 Annual report*, p. 22.

## Enforcement mechanism of the quota

If the quota obligation under the Persons with Disabilities Act is not fulfilled, the employer owes a monthly compensation instalment (fee) amounting to 30 % of the minimum wage for the country for each unoccupied job for a person with permanent disability.<sup>42</sup> The employer is obliged to pay this fee until the end of the month to which it refers.<sup>43</sup> Paying the fee does not abolish the quota obligation of the employer.<sup>44</sup> The fee is to be paid into the bank account of the General Labour Inspectorate. No further information is available about the annual income to the state budget from these fees, nor about how it is spent.

The Labour Code stipulates that an employer who fails to discharge a duty under the Code is liable to a fine of between EUR 750 and EUR 7 500, levied by the relevant labour inspectorate.<sup>45</sup> This is a general provision on sanctions and is not specific to non-implementation of quotas. In the case of quotas not being implemented, a fine would be imposed on the employer for the overall situation, not per unfilled quota place. If, upon subsequent inspection, the employer is found still not to have complied, a fine for a repeat violation would be imposed on them, ranging from EUR 7 500 to 10 000.<sup>46</sup> In addition, labour inspectorates have the competence to order employers to eliminate violations of the Labour Code.<sup>47</sup> Not obeying such an order leads to a fine ranging from EUR 750 up to 5 000.<sup>48</sup>

The Persons with Disabilities Act enforces the quota obligation by imposing sanctions on employers that had not fulfilled their obligation to pay their fee for non-fulfilment of their quota obligation – with the fee ranging from EUR 500 to 1 000 – or a property sanction ranging from EUR 1 000 to 2 500.<sup>49</sup> In cases of repeat violations, the fee or property sanction ranges from EUR 2 000 to 5 000.<sup>50</sup> The sanctions or fees are levied by the labour inspectorate.

An employer (or appointing authority) who has not spent the funds allocated by the Agency for Persons with Disabilities for the intended purpose or has not employed persons with permanent disabilities should reimburse the amounts received with legal interest and shall be sanctioned by a fine ranging from EUR 250 to EUR 500 or a property sanction ranging from EUR 500 to EUR 1 000, if not subjected to a heavier penalty.<sup>51</sup> In cases of repeat violation, the fine is EUR 1 000 to EUR 2 000.<sup>52</sup>

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<sup>42</sup> Persons with Disabilities Act, Art. 38(6).

<sup>43</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 29(6) (came into force on 6 April 2021).

<sup>44</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 29(7) (came into force on 6 April 2021).

<sup>45</sup> Labour Code, Art. 414(1).

<sup>46</sup> Labour Code, Art. 414(4).

<sup>47</sup> Labour Code, Art. 404.

<sup>48</sup> Labour Code, Art. 415.

<sup>49</sup> Persons with Disabilities Act, Art. 97(1).

<sup>50</sup> Persons with Disabilities Act, Art. 97(2).

<sup>51</sup> Persons with Disabilities Act, Art. 98.

<sup>52</sup> Persons with Disabilities Act, Art. 98(2).

## **Analysis assessing the strengths and weaknesses of the quota**

According to the Employment Agency's *2021 Annual report*, what may be a good idea to advertise job positions for persons with disabilities seems to not function in practice, and the reasons are complex. On one hand, according to the Agency, there is a reluctance or misunderstanding on the part of employers that the job positions created under Article 38 of the Persons with Disabilities Act do not overlap with job positions provided for in Article 315 of the Labour Code. The employers also have too high, and often inadequate, requirements for the job applicants, and they provide inadequate or inconsistent working conditions, considering the fact that the job position is for a person with permanent disability. On the other hand, there is sometimes a lack of interest from persons with disabilities. Jobs for home or remote working are not advertised. One of the possible solutions for the employment of persons with disabilities, according to the Employment Agency, is to identify separate operations that should be performed in one workplace, so that people with disabilities, with different abilities, can perform some of them.<sup>53</sup>

### **2.2 Tax relief/reduced social security contributions/wage subsidies for public and private employers employing persons with disabilities**

#### **Tax relief for employers who employ persons with disabilities**

The Corporate Income Tax Act provides for the right of businesses (private employers only) to reduce their financial accounting results in determining their tax liability when they have employed a person with reduced working capacity (disability) under an employment contract lasting not less than 12 consecutive months. The reduction is made through the amounts paid for remuneration and the contributions paid by the employer for state social insurance and the National Health Insurance Fund for the first 12 months of the employment. The reduction is made once in the year in which the 12-months period expires. No reduction is made for the amounts received under the Employment Promotion Act.<sup>54</sup>

No evidence or analysis assessing the strengths and weaknesses of the tax relief programme has been identified.

#### **Wage subsidies and exemption from social security contributions**

In Bulgaria, the employment promotion policy is basically planned and implemented by the Employment Agency (EA) (which is subordinate to the Ministry of Labour and Social Policy) through programmes and measures funded by the state budget and EU projects.<sup>55</sup> Under the programmes and measures for the promotion of employment, the EA distributes state financial resources: for salaries (and additional remuneration), for a number of social and health insurance contributions (basic, additional, and covering annual leave and periods of unemployment), for training (including transportation and accommodation fees as well as scholarships for unemployed persons undertaking professional training courses), for transportation, to cover interest on loans taken out

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<sup>53</sup> Employment Agency, *2021 Annual report*, p. 23.

<sup>54</sup> Corporate Income Tax Act (came into force on 1 July 2007), Art. 177, available in Bulgarian at: <https://www.lex.bg/bg/laws/ldoc/2135540562>.

<sup>55</sup> Employment Promotion Act (came into force on 1 July 2002), Art. 30, available in Bulgarian at: <http://lex.bg/bg/laws/ldoc/-12262909>.



by persons with disabilities to develop their own businesses, for supported employment, etc.<sup>56</sup> The funding for salaries and security contributions is provided to the employers; the funding for training is provided either to the training provider or to the trainees; other funding is provided to the unemployed persons. The amount of the funding for supporting employment programmes is determined annually in accordance with the National Employment Action Plan.<sup>57</sup>

The Employment Promotion Act (adopted in 2002) contains several measures for subsidising employers (public and private) who hire persons with disabilities:

1. Art. 36(2) – For each job opening at which an unemployed person up to 29 years of age with permanent disabilities or a young person from specialised institutions or a user of community-based residential social services who finished their education and is referred by the Employment Agency, is hired, the employer receives funding for the salary and all social and health insurance contributions (including for paid leave)<sup>58</sup> for the period while these employees are hired, but not for more than 18 months.<sup>59</sup> The employer receives the funding if he/she ensures the employment of unemployed persons, referred by the Employment Agency, for an additional period equal to the period of subsidised employment.<sup>60</sup>
2. Art. 51(2) – For each job opening for which an unemployed person with permanent disabilities, referred by the Employment Agency, is employed, the employer receives funding for the salary and the social and health insurance contributions (without paid leave) for the period while the person is hired, but this period cannot be shorter than 3 months or longer than 12 months. The subsidies for the employer are for an open job position/vacancy where a person with disability is employed, amounting to 75 % of the eligible costs for the subsidy period.
3. Art. 52 – For each job opening at which unemployed persons with permanent disabilities, referred by the Employment Agency, are hired full or part-time, the employer receives funding for the salary, all social and health insurance contributions (including for paid leave) for the period while these employees are hired, but not for more than 12 months.<sup>61</sup> The employer receives the funding if he/she ensures the employment of unemployed persons, referred by the Employment Agency, for an additional period equal to the period of subsidised employment.<sup>62</sup>
4. Art. 43a (adopted in 2015) – A person who has a licence to provide supported employment services may apply for allocation of funding for supported employment for each person with permanent disabilities or in another disadvantaged group on the labour market, referred by the Employment Department, for whom he/she has found a job at a non-subsidised workplace for a period not shorter than 12 months (supported employment). This measure was

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<sup>56</sup> Employment Promotion Act, Art. 30a.

<sup>57</sup> Employment Promotion Act, Art. 30a(3).

<sup>58</sup> Employment Promotion Act, Art. 30a(2).

<sup>59</sup> Employment Promotion Act, Art. 36(2) (last amended in 2019).

<sup>60</sup> Employment Promotion Act, Art. 56(4).

<sup>61</sup> Employment Promotion Act, Art. 52 (last amended in 2015).

<sup>62</sup> Employment Promotion Act, Art. 56(4).

not implemented in 2020 due to lack of interest from private labour mediation agencies providing supported employment for people with disabilities and persons from other disadvantaged groups on the labour market. Actions have been taken to increase the amounts of funds to be paid under this measure from EUR 250 to EUR 350, but this action has not led to the appearance of candidates. In 2020, the National Action Employment Plan did not provide for the provision of supported employment under Art. 43a of the Employment Promotion Act (EPA).

As stated above, under the Employment Promotion Act, the employer receives funding for measures under Articles 36 and 52 if he/she ensures the employment of unemployed persons referred by the Employment Agency for an additional period equal to the period of subsidised employment.<sup>63</sup>

According to the Employment Promotion Act, a 'person with permanent disability' is a person who, as a result of anatomical, physiological or psychological disability, has permanently reduced ability to perform activities in a manner and to the extent possible for a healthy person, and for which medical assessment authorities have established a permanent reduced working capacity/type and a degree of disability of 50 % or over.<sup>64</sup>

An employer (or appointing authority) to which funding for reasonable accommodation had been provided by the Agency for Persons with Disabilities, provided that it does not use preferences under the Employment Promotion Act, receives reimbursed funds from the state budget for 30 % of the social security contributions that it paid for state social insurance, compulsory health insurance and supplementary compulsory pension insurance for employees with disabilities, under a procedure governed by the Regulations for Implementation of the Persons with Disabilities Act.

### **Sick leave**

According to the Labour Code, an employee is entitled to leave in the event of temporary incapacity for work due to general illness or occupational disease, an accident at work, sanatorium treatment, urgent medical examination or tests, quarantine, dismissal by order of the health authorities, care for a sick or quarantined family member, having to accompany a family member to a medical appointment or treatment, or caring for a healthy child who has returned from a childcare facility due to quarantine at the facility or of the child.<sup>65</sup> Leave in such circumstances shall be authorised by the health authorities.<sup>66</sup> For the duration of the employee's leave due to their temporary incapacity, monetary compensation should be paid within the time and in the amounts specified by a separate law.<sup>67</sup>

According to the Social Security Code, for the first three working days of temporary working incapacity, the employer pays the insured employee 70 % of the average daily gross remuneration for the month in which the temporary working incapacity occurred. If the person does not have the required six months of insurance coverage, he/she is

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<sup>63</sup> Employment Promotion Act, Art. 56(4).

<sup>64</sup> Employment Promotion Act, Additional provisions, para. 1(29) (came into force in 2009).

<sup>65</sup> Labour Code, Art. 162(1).

<sup>66</sup> Labour Code, Art. 162(2).

<sup>67</sup> Labour Code, Art. 162(3).

not entitled to remuneration for the first three working days of temporary working incapacity.<sup>68</sup>

### **Eligibility conditions for the public and private employers**

Employers should not have unfulfilled public obligations or activities under the Operational Programme for Human Resources Development (OPHRD), and they should not fit the profile of enterprises in a difficult situation under Regulation (EU) No. 651/2014 or Article 1 of Regulation (EU) No. 1407/2013. Employers should hire persons with disability referred to them by employment departments for a period equal to the subsidised period.<sup>69</sup> Employment departments may refer more than one unemployed person for each of the subsidised job positions opened, to work there consecutively.<sup>70</sup> These job positions are subsidised if, during the last three months, the employer had not terminated a labour contract with employees hired for the same job positions where unemployed persons are being employed.<sup>71</sup> For each subsidised job vacancy, unemployed persons who had not worked for the employer during the previous six months should be hired.<sup>72</sup>

### **Analysis assessing the strengths and weaknesses of the wage subsidy programme**

According to the Employment Agency, interest in the incentive regimes aimed at people with disabilities (*National Programme for Employment and Training of Persons with Permanent Disabilities*, Articles 51(2) and 52 of the Employment Promotion Act) continued to be extremely high in 2021. They provided employment to a total of 1 956 unemployed people, of whom 1 209 were newcomers. The funds spent during the programme and on the two measures under the EPA amount to EUR 6.5 million.<sup>73</sup> In 2020, a total of 2 204 unemployed persons had been employed, including 927 newcomers. The state budget spent on implementation of the programme and under Articles 51(2) and 52 of the EPA was EUR 5.2 million.<sup>74</sup>

The table below presents figures related to the implementation of the *National Programme for Employment and Training of Persons with Permanent Disabilities* and the incentive measures under Articles 36 and 52 of the Employment Promotion Act from 2018 to 2021. According to the Employment Agency, interest in the Programme continues to be extremely high due to the full funding of employers, which covers the risk of limited physical capabilities on the part of the employed persons and their frequent absences due to illness, and the unemployed people with disabilities appreciate it due to the income and the two years of employment, which for them is their only opportunity for employment.<sup>75</sup>

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<sup>68</sup> Social Security Code (came into force on 1 January 2000), Art. 40(5), available in Bulgarian at: <https://www.lex.bg/bg/laws/ldoc/1597824512>.

<sup>69</sup> Employment Promotion Act, Art. 56(4).

<sup>70</sup> Employment Promotion Act, Art. 56(5).

<sup>71</sup> Employment Promotion Act, Art. 56(6).

<sup>72</sup> Employment Promotion Act, Art. 56(7).

<sup>73</sup> Employment Agency, *2021 Annual report*, p. 29. All annual reports are available in Bulgarian at: <https://www.az.government.bg/pages/otchet-za-deinostta-na-az/>.

<sup>74</sup> Employment Agency, *2020 Annual report*, p. 20.

<sup>75</sup> Employment Agency, *2021 Annual report*, p. 29.

	2018	2019	2020	2021
Total number of employed persons under the National Programme for Employment and Training of Persons with Permanent Disabilities	2 367 <sup>76</sup>	1 819 <sup>77</sup>	1 632 <sup>78</sup>	1 350
Newcomers	581	679	567	905
State funding spent on the programme	N/A	EUR 4.6 million	EUR 4.5 million	EUR 5.5 million
Total number of employed persons under Art. 51(2) EPA	478 <sup>79</sup>	363 <sup>80</sup>	439 <sup>81</sup>	466 <sup>82</sup>
Newcomers	186	193	276	220
State funding spent on the measure	EUR 0.7 million	EUR 0.6 million	EUR 0.6 million	EUR 0.8 million
Total number of employed persons under Art. 52 EPA <sup>83</sup>	126 <sup>84</sup>	140 <sup>85</sup>	133 <sup>86</sup>	140 <sup>87</sup>
Newcomers	92	122	84	84
State funding spent on the measure	EUR 138 455	EUR 144 000	EUR 125 000	EUR 186 000
Total number of employed	N/A	N/A	294 <sup>88</sup>	429 <sup>89 90</sup>

<sup>76</sup> Employment Agency, *2019 Annual report*, pp. 21-22.

<sup>77</sup> Employment Agency, *2019 Annual report*, pp. 21-22.

<sup>78</sup> Employment Agency, *2020 Annual report*, p. 21.

<sup>79</sup> Employment Agency, *2019 Annual report*, pp. 21-22.

<sup>80</sup> Employment Agency, *2019 Annual report*, pp. 21-22.

<sup>81</sup> Employment Agency, *2020 Annual report*, p. 21.

<sup>82</sup> Employment Agency, *2021 Annual report*, p. 29.

<sup>83</sup> Labour costs for a period of up to 6 months were funded for employers who created jobs and provided employment to persons with disabilities.

<sup>84</sup> Employment Agency, *2019 Annual report*, pp. 21-22, available in Bulgarian at: <https://www.az.government.bg/pages/otchet-za-deinostta-na-az/>.

<sup>85</sup> Employment Agency, *2019 Annual report*, pp. 21-22.

<sup>86</sup> Employment Agency, *2020 Annual report*, p. 21.

<sup>87</sup> Employment Agency, *2021 Annual report*, p. 29.

<sup>88</sup> Employment Agency, *2020 Annual report*, p. 33.

<sup>89</sup> Employment Agency, *2019 Annual report*, p. 42.

<sup>90</sup> The share of disabled employees is not clear.

persons under Art. 36 EPA				
Newcomers	N/A	N/A	182	278
State funding spent on the measure	N/A	N/A	EUR 280 000	EUR 0.75 million

However, the Employment Agency's *2021 Annual report* concludes that there is reduced interest on the part of both businesses and unemployed persons in many of the incentive regimes governed by the EPA.

The reasons should be sought in several directions according to the Agency:

- The projects under the Operational Programme for Human Resources Development, 'Employment for you' and 'New opportunity for youth employment', are more attractive, as the subsidies under these projects are more substantial than the employment measures under the EPA. Apart from the amount of the remuneration, the other conditions are also better.
- The projects under the OPHRD provide an opportunity for both internships and training, remuneration is paid to the interns at the minimum insurance threshold, a mentor is provided and additional funding is granted to employers for social security contributions for another six months if the employment contract becomes permanent. At the same time, the salary for young people under the Employment Promotion Act is lower than the national minimum wage, and some young people require a long period of maintained employment after the end of the subsidised period.
- In an uncertain economic situation, employers are afraid to make long-term commitments to hire new staff and prefer to keep current staff. The requirement to keep someone employed in a job position for the duration of the contract on incentives (mostly for 12 months or more) has a demotivating effect on employers and on some of the unemployed persons, many of whom prefer short-term employment.
- A significant fragmentation of measures under the EPA, leading to a severe narrowing in scope of these measures, increases the Employment Agency's management costs. This entails spending unjustifiably large amounts on administrative resources and creates confusion among jobseekers and employers. For example, in 2021, out of the total of 26 employment measures, 16 have a target value of up to 100 persons – that is, they are intended to subsidise the employment of less than 100 unemployed people.
- It is clear that, with such low targets and wasted resources, the impact on the most disadvantaged groups in the labour market will be limited. In order to provide financial support for unemployed people from vulnerable groups and for the business during a period of economic crisis, financial resources from the state budget, through redistributions set and approved by the Ministry of Labour and Social Policy in July and at the end of October 2021, were redirected to employment and training programmes and measures that employers and

unemployed people were interested in, subsidising jobs and making a greater impact on the labour market for those in vulnerable groups.

- Notwithstanding the possibility of reallocating funds from one programme or measure to another if preferred, it is necessary to evaluate each measure separately, to review their large number and to consolidate them in order to increase their attractiveness and their impact. The measures and employment programmes should offer conditions no less attractive than those of the projects under the OPHRD. In addition, measures to promote employment should be combined with purely economic measures as, in recent years, there has been a concentration of people from vulnerable groups in some municipalities where the municipality is the only employer or where there are no employers at all. This creates problems in directing resources to people in need, and there may be an inability to take full advantage of these measures due to a lack of employers.<sup>91</sup>

The main conclusion of a piece of NGO research under the 2019 international project ‘Involvement of employers in improvement of work conditions and increase of the number of employed people with disabilities’ is that there is insufficiently active dialogue between unemployed people with disabilities, employers, employment agencies and employment institutions.<sup>92</sup> The research reveals that most employers are not aware of persons with disabilities as a workforce, they are not aware of the standards for accommodated workplaces, they are not aware of and do not use programmes to promote the employment of people with disabilities and they have not been approached by jobseekers with disabilities. Persons with disabilities do not have direct contact with employers, but they do not rely on labour mediators either. Labour mediators are totally unaware of how to assist persons with disabilities to find a suitable job. The labour mediators themselves are not aware of the professional and personal qualities of people with disabilities and are not able to advertise them to potential employers. This is why the majority of people with disabilities have not been referred to job vacancies by the employment departments and therefore do not register with them.

The research project sets out several recommendations:

- dialogue between employers and unemployed persons with disabilities might be improved if NGOs of and for persons with disabilities are involved;
- an adequate information environment is also needed – an information desk should be set up in each employment institution, and consultancy and training services should be provided;
- concluding a contract between the employment departments and the employers requires a series of documents that are difficult (i.e. time consuming and costly) to obtain, so the departments should collect these *ex officio*.<sup>93</sup>

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<sup>91</sup> Employment Agency, *2021 Annual report*, pp. 35-36.

<sup>92</sup> Institute for Study of Change foundation, *Analytical desk research report – Research on the experience of EU member states, practices, models and approaches in inclusion of persons with disabilities in employment and ensuring a set of measures and methods for the promotion of hiring and retaining persons with disabilities by employers* (2019), Sofia, pp. 78-84, <https://studyofchange.com/en/desk-research/>.

<sup>93</sup> Institute for Study of Change foundation, *Analytical desk research report – Research on the experience of EU member states, practices, models and approaches in inclusion of persons with disabilities in employment and ensuring a set of measures and methods for the promotion of hiring*

## 2.3 Reasonable accommodation

### Reasonable accommodation duty in the context of employment under national law

The most recent legal framework for the duty on employers to provide reasonable accommodation for persons with disabilities at the workplace is set out in Article 40 of the Persons with Disabilities Act (in force since 1 January 2019).<sup>94</sup> According to this legislation, an employer is under a duty to adapt the workplace to the needs of a person with a disability upon their hiring, if necessary, depending on the type and degree of the disability.<sup>95</sup> This provision does not seem to cover job applicants as such, but only those candidates who are selected. It does not cover existing employees whose disabilities occur in the course of their employment either. 'Reasonable accommodation', according to the same law, means any necessary and appropriate modifications and adaptations which do not lead to a disproportionate or unjustified burden on others, where these are necessary to ensure that a person with disability's rights and fundamental freedoms are recognised and exercised on an equal basis with other people within the meaning of the UN Convention on the Rights of Persons with Disabilities.<sup>96</sup> However, under the Persons with Disabilities Act, 'reasonable facilitations' are listed only among the means to support people with disabilities for the purposes of their social inclusion.<sup>97</sup>

In 2004, the Protection against Discrimination Act introduced, in Article 16, the duty for reasonable accommodation for people with disabilities in employment but did not define it.<sup>98</sup> This duty covers employees and successful job applicants (selected candidates entering employment), but not all job applicants (for the purposes of their application and participation in the selection process). The limit of the duty is when 'costs are unjustifiably large and would seriously hinder' the employer.<sup>99</sup>

Under the Protection against Discrimination Act and the Persons with Disabilities Act, the entitlements apply to all professional contexts and employment relationships. Job applicants are not covered by either act.

There are no criteria in the laws for assessing the extent of the duties to provide reasonable accommodation. According to the Labour Code (in force since 1987), employers are under a duty to provide accommodation for workers 'who, because of illness or an accident at work, are unable to perform their assigned job but are able, without endangering their health, to perform another suitable job or the same one under alleviated conditions'.<sup>100</sup> This duty has no disproportionate burden limit and is based

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*and retaining persons with disabilities by employers* (2019), Sofia, pp. 78-84, <https://studyofchange.com/en/desk-research/>.

<sup>94</sup> Persons with Disabilities Act, Art. 40.

<sup>95</sup> Persons with Disabilities Act, Art. 40.

<sup>96</sup> Persons with Disabilities Act, Additional provisions, para. 1(5).

<sup>97</sup> Persons with Disabilities Act, Art. 5(2)(4).

<sup>98</sup> The provision reads: 'The employer is under a duty to adjust the workplace to the needs of a person with a disability upon the latter's hiring or when the person's disability occurs following their hiring, unless the costs of this are unjustifiably large and would seriously hinder the employer'.

<sup>99</sup> Protection against Discrimination Act (came into force on 1 January 2004), Art. 16, available in Bulgarian at: <https://www.lex.bg/bg/laws/ldoc/2135472223>.

<sup>100</sup> Labour Code, Art. 314. Such accommodation can include both adjustments to working conditions for the same job and reassignment to another job.

on an instruction by the health authorities. An employer who fails to comply with such an instruction owes the employee concerned compensation.<sup>101</sup> Under the Civil Servants Act (in force since 1999), there is an absolute duty on employers to 'adapt the workplace of the civil servant with a permanent disability in a way that makes it possible for their civil service to be carried out'.<sup>102</sup>

According to the Healthy and Safe Working Conditions Act, employers are under a duty to provide the appropriate facilities for employees with reduced working capacity, including people with disabilities, in their workplaces.<sup>103</sup> Employers are to be assisted and given consultation by specialist occupational health authorities in adapting jobs to employees' capabilities, considering their physical and mental health.<sup>104</sup> The lack of definitions of the duties on employers to provide reasonable accommodation for people with disabilities is not on record as having caused difficulties in implementation, as there have as yet been very few reasonable accommodation cases according to the available information.

Failure to meet the duty of reasonable accommodation is not recognised as a form of discrimination under the Protection against Discrimination Act, the Persons with Disabilities Act, the Labour Code or the Healthy and Safe Working Conditions Act.

## 2.4 Other relevant actions targeted at employers

No specific actions targeted at employers to promote the employment of persons with disabilities were identified by this research.

## 2.5 Examples of good practice

No examples of good practice in support and incentive measures were identified in Bulgaria.

## 2.6 Good practice guides, websites and advice services directed at employers

This research identified only three guides and websites directed at employers. There is no good practice guide.

The first guide, issued in 2011 by the National Federation of Employers of Disabled Persons (which seems to be an umbrella organisation of employers providing sheltered employment), is called *Let's employ a person with disability*.<sup>105</sup> This 40-page publication contains information on policies, programmes and legislation providing incentives for employers; up-to-date statistics about labour market dynamics; tax relief, subsidies and preferences for employers of persons with disabilities; legislation related

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<sup>101</sup> Labour Code, Art. 317(4).

<sup>102</sup> Civil Servants Act (came into force 28 August 1999), Art. 30.

<sup>103</sup> Healthy and Safe Working Conditions Act (came into force 23.12.1997, last amended 5 December 2017), Art. 16(1), items 3 and 4, available in Bulgarian at: <https://www.lex.bg/laws/ldoc/2134178305>.

<sup>104</sup> Healthy and Safe Working Conditions Act, Art. 25(2)(3). These authorities are charged, *inter alia*, with monitoring and analysing employees' health status (Healthy and Safe Working Conditions Act, Art. 25a(1), items 2 and 4).

<sup>105</sup> National Federation of Employers of Disabled Persons (2011), *Let's Employ a Person with Disability*, Sofia, available in Bulgarian at: <http://www.nsrhu.bg/documents/RABOTODATEL-naruchnik-A5-3.pdf>.



to self-employed persons with disabilities; practical advice about communication between employer and employees with disabilities; general requirements and rules for conduct in the process of recruiting and employing persons with disabilities; and basic rules for developing an employment policy for persons with disabilities.

Subsequently (but at an unspecified date), the National Federation of Employers of Disabled Persons published a 17-page guidance document,<sup>106</sup> which explains the business benefits of employing persons with disabilities; it responds concisely and clearly to employers' FAQs; and it explains how to open up suitable job positions for persons with disabilities in practice, how to draw up clear recruitment policies, how to prepare, train interviewers and conduct interviews, what auxiliary measures are necessary at the workplace, how to provide universal design, an accessible environment and specific adaptations for persons with sensory disabilities, how to provide introductory training, how to manage work performance and how to ensure the career development of employees with disabilities.

The third guide was issued in 2018 by Ernst & Young Global Limited.<sup>107</sup> This 20-page guide contains information on: the most common prejudice and myths related to the employment of persons with disabilities; a summary of the benefits for the employer; instructions and recommendations on how to advertise job vacancies in order to reach persons with disabilities; and instructions and recommendations on how to organise the interview, how to adapt the workplace (short instructions are included for different types of disability – sensory, physical, intellectual and autistic), how to prepare the team to work with a person with disability and how to ensure the career development of the person with disability.

There is no evidence on how the guides, websites or advice services are being used by employers, nor on any effect they are having.

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<sup>106</sup> National Federation of Employers of Disabled Persons, *Employing Persons with Disabilities*, available in Bulgarian at: <http://www.nsrhu.bg/documents/NAEMANE-HU.pdf>.

<sup>107</sup> Ernst & Young Global Limited (2018), *Equality at the workplace for persons with functional differences, Handbook for Employers*, Sofia, available in Bulgarian at: [https://jambacareers.at/wp-content/Employer%20toolkit\\_Abilities\\_JAMBA\\_EY.pdf](https://jambacareers.at/wp-content/Employer%20toolkit_Abilities_JAMBA_EY.pdf). The website [www.jamba.bg](http://www.jamba.bg) deals with internships and the career development of persons with disabilities, and is intended to mediate between unemployed persons with disabilities and employers.

### **3 Support and partnerships available to employers to assist them in making reasonable accommodations**

#### **3.1 Support available to employers for making reasonable accommodation**

The only support available for employers (both public and private) to assist them in making reasonable accommodation is funding from the Agency for Persons with Disabilities (which is subordinate to the Ministry of Labour and Social Policy). According to the Persons with Disabilities Act, the Agency for Persons with Disabilities may finance an employer (or appointing authority) under a national employment programme for people with disabilities for:

1. provision of access to the workplace for a person with a permanent disability;
2. adaptation of the workplace for a person with permanent disability;
3. equipment at the workplace for a person with permanent disability;
4. qualification and re-qualification or training for professional development;
5. other activities.<sup>108</sup>

The Agency for Persons with Disabilities provides information on an annual basis on funding opportunities for projects/programmes to promote business initiatives in the interest of people with disabilities under the Persons with Disabilities Act, which contains:

1. the conditions and the order in which an employer may apply for funding under the *National Programme for Employment of Persons with Permanent Disabilities*;
2. the conditions and the order for funding programmes and projects aimed at starting and developing independent economic activity by persons with disabilities themselves.<sup>109</sup>

The Minister of Labour and Social Policy adopts the *National Programme for Employment of Persons with Permanent Disabilities* by means of an annual order, which is implemented as a project within a concrete annual budget.<sup>110</sup>

In order to benefit from the national programme, the employer should apply to the Agency for Persons with Disabilities for funding.<sup>111</sup> The Agency posts information on its webpage about the National Programme and the tender specifications by 31 March every year.<sup>112</sup> The employer is eligible to apply for funding if:

1. it has no unfulfilled public obligations to the state or to municipalities;
2. the total amount of state aid it receives does not exceed the BGN equivalent of EUR 200 000 for a period covering the most recent three budget years;
3. it has not received funding from other sources to cover the same eligible costs or for the same purpose;

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<sup>108</sup> Persons with Disabilities Act, Art. 44(1).

<sup>109</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 33(1) and (2), available in Bulgarian at: <https://www.lex.bg/bg/laws/ldoc/2137192229>.

<sup>110</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 34.

<sup>111</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 35.

<sup>112</sup> See the website of the Agency for the Persons with Disabilities: <https://ahu.mlsp.government.bg/portal/page/83>.

4. it is not included in the exceptions indicated in Article 1 of Regulation (EU) No. 1407/2013.<sup>113</sup>

The executive director of the Agency for Persons with Disabilities sets up a commission, which evaluates the project proposals. Within 20 working days from the receipt of the candidates' project proposals, the commission performs an administrative compliance review. The candidates are ranked according to criteria, conditions and financial parameters, as determined in guidelines, which are an integral part of the National Programme.<sup>114</sup> The executive director of the Agency for Persons with Disabilities issues a reasoned order within 10 working days after receiving the commission's evaluation report, announcing the ranking of the project proposals.<sup>115</sup> The funds are provided on the basis of a contract concluded with the Agency for Persons with Disabilities for funding the project activities. The contract shall be concluded within one month of the issuance of the order.<sup>116</sup>

The employer is obliged to hire persons with disabilities for a period of at least three years after receiving the funding.<sup>117</sup> During the subsidised period the employer may consecutively employ several persons with the same disability for whom the reasonable accommodation under the project has been provided.<sup>118</sup>

An employer receiving funding for access to and adaptation of the workplace, reasonable accommodation, qualification and training for persons with disabilities is obliged to make monthly payments to the local National Tax Agency Department covering the full amount of social security contributions due for state social insurance, compulsory health insurance and additional mandatory pension insurance for employees with permanent disabilities.<sup>119</sup> The employer is also obliged to send the Agency for Persons with Disabilities a list with the names of all persons with permanent disabilities employed under employment contracts, every three months. The employer (or appointing authority) to which funding for reasonable accommodation had been provided by the Agency for Persons with Disabilities – provided that it does not use preferences under the Employment Promotion Act – receives reimbursed funds from the state budget for 30 % of the social security contributions that it paid for state social insurance, compulsory health insurance and supplementary compulsory pension insurance for employees with disabilities, under a procedure governed by the Regulations for Implementation of the Persons with Disabilities Act.

The funds allocated by the Agency for Persons with Disabilities to the employer are limited, and each component has its own limit.<sup>120</sup>

Component 1 is funding to ensure architectural access for persons with physical disabilities, visual impairments or other specific disabilities to the building and inside it, including to the workstation of a person with permanent disability and to the bathroom.

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<sup>113</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 35(3).

<sup>114</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 35(6)-(8).

<sup>115</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 35(11).

<sup>116</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 35(14).

<sup>117</sup> Persons with Disabilities Act, Art. 44(2).

<sup>118</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 35(15).

<sup>119</sup> Regulations for Implementation of the Persons with Disabilities Act, Art. 40.

<sup>120</sup> Agency for Persons with Disabilities, *Guidelines for funding of project proposals of employers/appointing authorities under the National Programme for Employment of Persons with Disabilities*, Art. 3, available in Bulgarian at: <https://ahu.mlsp.government.bg/portal/page/83>.

The upper limit of this component is EUR 5 000.<sup>121</sup> This sum is granted to the applicant once, regardless of the number of persons with permanent disabilities who will make use of the funding. No funding is granted for providing access to persons with disabilities if they are clients (or patients) of the employer. In this case, the employer provides the necessary funds to provide access using other sources.

The funding for ensuring access may be used for the construction of ramps, paths for people with visual impairments or mechanisms for facilitated entry/exit through the external entrance of the building in which the workstations for persons with permanent disabilities are located, for construction and/or adaptation of sanitary facilities, workstations for persons with disabilities and approaches to them. In carrying out these activities, the provisions of the relevant regulations for building design, construction and maintenance, in accordance with the requirements to provide an accessible environment for the population, including people with permanent disabilities, should be implemented.<sup>122</sup> The requested funding for construction and/or adaptation according to the needs of persons with permanent disabilities should be used only for construction and installation work. The maximum amount of this funding is EUR 2 500.

Funding for ensuring access is granted only to candidates who are owners of the building or parts of a building where the workstation for persons with permanent disabilities will be equipped. If the employer is not the owner, he/she should present a duly signed rent agreement and written consent from the owner for the construction work required to provide the access, listing all sites affected by this work. Under the rent agreement, the employer must ensure the use of the built access for a period not shorter than the term of the funding agreement.<sup>123</sup> The employer is obliged to present photos of the site or premises before the construction and installation works, with a brief description of the condition of the site. Where applicable, the employer presents a constructive opinion, technical documentation and a construction permit. If a change of address is required in order to implement the project activity, the employer should provide access for the employees with permanent disabilities at his/her own expense.

Component 2 is funding for adaptation of appliances, devices and facilities to compensate for the conditions related to the disability of the person whose workstation is to be adjusted in connection with the performance of the duties assigned to him / her, and funding for the acquisition of facilities/devices to create a favourable health environment for the working persons with permanent disabilities. The maximum amount of this funding is EUR 5 000 per workstation.<sup>124</sup> If a change of address is required to carry out the activity under the project, the employer should ensure adjustment of the workplace at his/her own expense.

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<sup>121</sup> Agency for Persons with Disabilities, *Guidelines for funding of project proposals of employers/appointing authorities under the National Programme for Employment of Persons with Disabilities*, Art. 4.

<sup>122</sup> Agency for Persons with Disabilities, *Guidelines for funding of project proposals of employers/appointing authorities under the National Programme for Employment of Persons with Disabilities*, Art. 4(5).

<sup>123</sup> Agency for Persons with Disabilities, *Guidelines for funding of project proposals of employers/appointing authorities under the National Programme for Employment of Persons with Disabilities*, Art. 4(8).

<sup>124</sup> Agency for Persons with Disabilities, *Guidelines for funding of project proposals of employers/appointing authorities under the National Programme for Employment of Persons with Disabilities*, Art. 5.

Component 3 is funding used for the acquisition of workplace equipment for a newly hired person with permanent disabilities. The equipment must provide the necessary technical conditions, technology and consistency of process that will enable the new employee to perform his/her duties effectively. The funds are limited to EUR 5 000 per workstation.<sup>125</sup> This funding may be used to acquire: (1) assets for long-term use, without which the employee with permanent disability would not be able to perform his/her immediate duties; (2) facilities / devices for creating a favourable health environment for the working persons with permanent disabilities. The amount of funding allocated for workplace equipment is proportional to the working time during which the person with permanent disabilities will perform his/her duties, unless two persons with permanent disabilities work consecutively at the same workstation, thus forming one full-time day in the performance of the same role. The assets acquired for workplace equipment must be new. When the employer seeks to acquire second-hand assets, he/she should indicate in the application form the reasons motivating his/her choice. An employer who has received funding should reimburse the Agency for Persons with Disabilities for the funding used when he/she buys second-hand assets without having pledged or justified this in the tender offer.

Component 4 is funding which covers expenses for conducting training courses for an employee with a disability that are directly related to the position held. The maximum amount is EUR 500 per person with permanent disability.<sup>126</sup> If financial resources are acquired under this component, qualifications, re-qualifications and the professional development of employees with permanent disabilities should be increased. The training courses should be conducted by licensed trainers who, after conducting the training, must issue a certificate attesting to its successful completion. When an employer who has received this funding does not maintain employment for a period of 36 months for a trainee, he/she should train another person with permanent disabilities at his/her own expense.<sup>127</sup>

Each employer is allowed to participate in the announced tender by making one proposal only. Eligibility criteria for employers are, first, completion of one full calendar year before the year of application during which he/she has performed business activity and, secondly, not having made a financial loss during the year prior to the year of the application.<sup>128</sup>

According to the *2021 Annual report* of the Agency for Persons with Disabilities, there were two tender procedures for the funding of projects for employers that hired persons with disabilities. In order to promote the programme, online meetings were held – ‘open doors’ days, at which the programme was presented and the participants or potential beneficiaries had the opportunity to ask specific questions. Whether by letters or e-

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<sup>125</sup> Agency for Persons with Disabilities, *Guidelines for funding of project proposals of employers/appointing authorities under the National Programme for Employment of Persons with Disabilities*, Art. 6.

<sup>126</sup> Agency for Persons with Disabilities, *Guidelines for funding of project proposals of employers/appointing authorities under the National Programme for Employment of Persons with Disabilities*, Art. 7.

<sup>127</sup> Agency for Persons with Disabilities, *Guidelines for funding of project proposals of employers/appointing authorities under the National Programme for Employment of Persons with Disabilities*, Art. 8.

<sup>128</sup> Agency for Persons with Disabilities, *Guidelines for funding of project proposals of employers/appointing authorities under the National Programme for Employment of Persons with Disabilities*, Art. 9.

mails, employers' organisations in the country were invited to promote the benefits of the programme among their members and to apply for the announced tenders. In the first round, a total of 20 employers from the active/open labour market applied. A commission composed of external expert evaluators approved 11 project proposals for funding. Contracts totalling EUR 70 678 were concluded. Eight employers applied in the second round. The commission approved seven project proposals for funding, and contracts amounting to EUR 41 838 were concluded.

With the implemented total of 18 projects, 40 workstations were adapted and equipped for people with permanent disabilities. In 2021, 10 projects successfully completed their investment phase. The funds actually paid by the Agency under this programme amount to EUR 85 555. In 2022 the investment phase is continuing for eight projects. Beneficiaries of the tenders in 2021 included several municipal administrations, municipal enterprises, libraries, a hospital, a nursery and an institution for adults with psychosocial disorders (all public, municipal employers). For the first time in several years there has been an increase in the number of funded private employers (six employers).<sup>129</sup>

### **3.2 Partnerships to assist employers to make reasonable accommodations**

No examples of partnerships assisting employers to make reasonable accommodation were identified by this research.

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<sup>129</sup> Agency for Persons with Disabilities, *2021 Annual report*, pp. 9-10, available in Bulgarian at: <https://ahu.mlsp.government.bg/home/>.

#### **4 Illustrative examples of good employer practice for providing reasonable accommodations for persons with disabilities**

##### **4.1 Good practice guides for employers regarding reasonable accommodation**

This research has not identified good practice guides for employers regarding reasonable accommodation.

##### **4.2 Any other sources of information regarding good practice for employers regarding reasonable accommodation**

This research has not identified any other national sources of information on good practice for employers regarding reasonable accommodation.

##### **4.3 Examples of individual reasonable accommodations which reveal good practice**

This research has not identified any examples of individualised reasonable accommodations which have actually been made and which reveal good practice.

## **5 Recommendations and guidance regarding good practice and reasonable accommodation**

### **5.1 Recommendations regarding good practice and reasonable accommodation in recruitment and hiring**

State institutions such as the Agency for Persons with Disabilities, private employers and NGOs of and for persons with disabilities should set out guidelines for ensuring reasonable accommodation for persons with different types of disabilities, relevant for different ages, genders and professions. This should cover the phases of advertising of vacancies, the provision of information to job applicants, the interview process, and factors taken into account when deciding who to appoint.

### **5.2 Recommendations regarding good practice and reasonable accommodation in initial employment**

State institutions such as the Agency for Persons with Disabilities, private employers and NGOs of and for persons with disabilities should set out guidelines for ensuring reasonable accommodation for newly recruited staff. Currently, only the employer's obligation to ensure reasonable accommodation is provided for in the law, but without clear definitions or guidance.

### **5.3 Recommendations regarding good practice and reasonable accommodation in promotion and career development**

State institutions such as the Agency for Persons with Disabilities, private employers and NGOs of and for persons with disabilities should set out guidelines for ensuring reasonable accommodations to facilitate staff promotion and career development.

### **5.4 Recommendations regarding good practice and reasonable accommodation in retention, i.e. enabling people to stay in work if they develop an impairment or their impairment changes**

State institutions such as the Agency for Persons with Disabilities, private employers and NGOs of and for persons with disabilities should set out guidelines for ensuring reasonable accommodations for existing staff who acquire an impairment during the course of their employment, or whose impairment changes during the course of their employment.



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