

## **EMPLOYMENT PROBLEMS FOR DISABLED PEOPLE, A STUDY OF ILO CONVENTION AND DOMESTIC LAWS**

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**ABSTRACT:** *Employment is considered as a crucial moment in the life of every individual who is capable of working. It takes a special significance when related to the social inclusion and the guaranteeing of economic independence for the disabled people in working age. This article aims to analyze the employment state of the disabled people in Albania as well as to shed light on the difficulties this target group faces in realizing and exercising the right of employment. This is made by analyzing international and the national legislation. Is this completed and above all is it being implemented? We have analyzed the employment situation of the disabled people in our country, the preventing factors which do not allow the law to be applied? Under the social-economic aspect is it better for this target group to be treated with social assistance or direct social governing policies towards a maximum potential integration for a real and guaranteed employment? Sample page: European – American Journal (Politics and Law)*

**KEYWORDS:** Employment, Convention, Disabilities, Domestic Laws

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### **INTRODUCTION**

Approximately 12 percent of the world's population suffers from a kind of disability, while 3 percent are directly connected with a disability problem in their family. One in ten Europeans has a physical, mental or sensory impairment. Employment is of the key elements for the whole social inclusion and economic independence for the disabled people in working age.

The first part of this paper will draw its attention to a general overview of the policies, theories and the recent developments in the field of people with disabilities in Albania. Then it will analyze the employment rights in the Albanian legislation for them. The second part will treat the definition of "disabled people" their classification and the benefits for each category. The third part will analyze the employment situation of disabled people in the city of Elbasan. For this situation we have conducted a study which involved disabled people, their families, the employers and the state institutions. In the fourth part we will discuss the legal framework in the field of employment for disabled people. The last part will present the conclusions, recommendations and the literature used.

### **A brief history of the situation of disabled people**

One in every six people in the world has a disability. Nearly 785 million people from this large group of people is estimated to be in working age but most of them do not work. The other part exercises to some extent the employment right and is almost integrated in the society. Disabled people often face disproportionate poverty and unemployment and they continue to be discriminated by the society. Although their issue has been treated in several international acts their situation has continued for a long time to be difficult and often unaffordable.

However, in a world where human rights have taken a key role in the design and implementation of policies and legislation, even the situation of disabled people has taken a new meaning through the positive developments in towards them. What is considered as more essential in this aspect is the change of people's attitude towards the concept of disability. It went from the model of compassion, charity and treatment of a disability as a purely medical issue to a pattern of human rights where disabled people are not object of laws, but subjects with full rights and conditions equal to the others.

Decent work is the primary goal of the ILO<sup>1</sup> for all including every person with disabilities. This organization has been working for more than 50 years to promote skills' development and employment opportunities for the disabled people.

Employment for disabled people is little mentioned in Albania. These people the same as in other countries have not yet been fully included in the society, as well as in the political, social or economic life. Currently there are no data on gender structure of the disabled people, for disabilities after pension or data on the employment situation etc.

### **Employment right for disabled people under the standards optics of international law**

The international Convention on the economic and socio-cultural rights, guarantees the fundamental economic, social and cultural rights for all individuals, especially the right for social insurance and social services. The European Social Charter contains among other things a set of rights related to the employment policies, social and medical assistance, the right to benefit from public services and raising the social welfare. The Convention on the Rights of Persons with Disabilities (December 2006), is designed to protect the rights of the targeted social group. The purpose of the convention is to promote, protect and ensure that all people with disabilities to fully and equally enjoy all rights and freedoms, as well as to convey respect for the human dignity, acquired since birth. Even before the declaration of human rights, or the existence of the United Nations Organization, the International Labor Organization (ILO) has played a fundamental role in the formulation of a whole range of standards in the field of study of this issue. Consequently, after decades of effort and negotiations at international level, human rights in the employment field, (we can say that) developed significantly, but may not be enough.

The Convention on the rights of persons with disabilities is an all-inclusive convention type. It promotes and protects the rights of persons with disabilities and it is supposed that it will definitely reshape in a more efficient and complete way all the life dimensions of disabled people, including their integration into civilian, political, economic and social life.

The European Social Charter, revised in article 15 provides the persons with disabilities the right to live independently, to be integrated in the society and to actively and continuously participate in community life.

### **The domestic legal regulation and the state institutions that monitor the employment relationship of the disabled people**

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<sup>1</sup> International Labor Organization (ILO) is a United Nations agency which deals with labor issues, in particular international labor standards, social protection and employment opportunities for everyone. 185 from 193 UN member states are also members of ILO.

Various issues of labor relations for people with disabilities find adjustment in the domestic law through a regulatory framework enriched with more normative acts. Below we present some of the most important acts:

- The Constitution of the Republic of Albania provides the right to earn a living through legitimate work, chosen by the citizens or that he/she admits. The intervention of the state is required in order to realize this right and provide citizens of working age or job seekers with an employment.
- Law 10221/2010 "On protection from discrimination" is already a basic law in Albania even for persons with disabilities. This law fully and contemporary covers different forms of discrimination and creates relevant institutions for protection against discrimination.
- The Labor Code of the Republic of Albania prohibits any kind of discrimination in employment and professional treatment of people with disabilities. They have the right to work in an appropriate way according to the medical assessment committee which determines their ability to work. Within the Labor Code you find elements of non-discrimination principles towards physically and mentally handicapped people.
- "The regulation on the organization, rights, duties and functioning of the medical commissions for job scheduling capabilities of the disabled" establishes the rights, the duties and the functioning of MCJSC<sup>2</sup>. The MCJSC practices its activity in the SSI<sup>3</sup> and it is also directed and responsible to it.
- Law No. 7703 "On Social Insurance in the Republic of Albania" handles a disability pension to people who have become totally or partially disabled during the insurance period and this due to an accident at work or occupational disease.
- Law No. 8626 "On the status of the paraplegic and quadriplegic". Based on Article 7 of this status, public and private legal entities which employ paraplegic and quadriplegic patients in addition to the criteria defined in Law No. 7995 "On employment promotion" for each calendar year they profit an income tax reduction, equal to the percentage of paraplegic and quadriplegic workforce.
- Law No. 9355 "On social assistance and social services". Article 11, paragraph 2 provides that the recipient of the payment due to disability, classified on the second groups of disabilities from the medical commission medical for job scheduling capabilities loses the right of payment because of disability when they get employed.

The above regulatory framework applies and is also monitored by state institutions responsible for the employment of people with disabilities. Two of the most important institutions are the Ministry of Youth and Social Welfare and the National Employment Service.

On a central institutional level the Ministry of Youth and Social Welfare (or former Ministry of Labor, Social Affairs and Equal Opportunities) is the competent authority in the field of employment. Strengthening the stability of the workforce is realized by increasing the productivity of government employees, the development of national human resources, strengthening the training sector in order to raise the competence of the workforce, and

<sup>2</sup> The Medical Commission for Job Scheduling Capabilities

<sup>3</sup> The Social Insurance Institute

improving the country's competitiveness through the acquisition of an efficient workforce. It is also needed to ensure a fair reward from work, promoting the security of the society as a necessity for the overall social and economic development.

Another important institution is the National Employment Service, established by CMLA (Council of Ministers Legal Acts) No. 42 "On the approval of the statute of the national employment service". The highest decision making body of the national employment service is the Trilateral Administrative Council. The purpose of this institution is the fulfillment of the right of all citizens resident in Albania for profitable employment through employment services and participation in state programs of the labor market.

### **Disabled people and their employment reality in Albania**

According to the Albanian legislation the term "persons with disabilities", includes an individual, who has become disabled as a result of physical, sensory, intellectual, psychological or mental, born or acquired during life from accidents, illnesses, temporary or permanent, which do not come from causes arising from employment. We classify them in two groups: disabled people and working disabled (when the causes come from employment).

Studies conducted in Albania indicate the beginning of a new state, which has just begun to be felt, for the employment of persons with disabilities. In fact, the employment of individuals with disabilities is more related to personal knowledge and recommendations, rather than a legal obligation associated with the human rights and in accordance with the international standards documents.

The domestic legislation in the field of employment, apparently promotes the employment of people with disabilities in the quotation system. The practice until now shows that the legal basis is not sufficiently applied and therefore the employment of individuals with disabilities has not been possible. The Albanian reality of employment has highlighted deficiencies in practical solutions for the implementation of the law for the employment of persons with disabilities.

Even those few professional training courses, which can be followed by the disabled individuals, remain unfrequented from this category not only because of the lack of information but also because of the maladjusted infrastructure or the lack of experience of the staff.

### **Study of the employment status of persons with disabilities**

Albania has a high level of unemployment in the whole population. Regarding to the disabilities, the level of unemployment is very high and this is due to a number of factors such as the economic, the social, the demographic and the infrastructural one. In this regard there is an inefficient cooperation between the responsible institutions on one hand, as well as a lack of knowledge and incomplete implementation of the legislation in practice.

The study regarding the employment of persons with disabilities was realized in Elbasan city.

The overall number of the disabled people identified in Elbasan is 3704 people, of whom 1,011 are beneficiaries of the status of the blind, 228 are beneficiaries of the status of disabled

paraplegic and quadriplegic persons, while 2465 are beneficiaries of the payment for having disabilities. Furthermore in Elbasan there were identified 3095 working invalids.

About 48 percent of the persons with disabilities who benefit from the state payment scheme are people of working age. With regard to the barriers that hinder the employment of people with disabilities, we asked the specialists of DRSHPK and the Labor Inspectorate in Elbasan and they listed these obstacles:

- Limited labor market
- The business community is unaware
- Public opinion is very prejudicial
- The legal framework, which must be improved but also implemented
- Employers' insufficient education and awareness, and as well as of people with disabilities, their families and their organizations
- There is a lack of accurate assessment of the opportunities and employability for persons with disabilities
- There is no reduced work time
- There is no doctor on companies with many workers
- It has not yet been established an employment fund, an additional opportunity to boost employment of this category

## CONCLUSIONS

Disabled people face social exclusion and unequal opportunities in life day by day. They are treated by providing assistance for disability in cash. The social policies are not oriented towards increasing monthly disability pay.

There is a lack of assessment at the local level for the recognition of persons with disabilities; there are no policies to promote employment, and no specialist facilities for assessing the ability to work for the disabled people. The law on employment encouragement has not yet been implemented because it is not contemporary and it lacks sanctions that make it applicable. Only a comprehensive and sanctioning legal framework and, coupled with education and awareness of all stakeholder can solve the crises of involvement in employment and professional training for persons with disabilities.

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