

POLISH COUNTRY NOTE

for

**THE OECD THEMATIC REVIEW ON REFORMING SICKNESS AND
DISABILITY POLICIES TO IMPROVE WORK INCENTIVES**

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A. Introduction and main context

a) Forces shaping policy development

Chosen goals and priorities and following direction of changes of policy towards the disabled

In the past years the basic goal of state policy towards disabled was their vocational mobilisation. Several instruments and streams of expenditures were subordinated to the goal of employment. The basic sources of financing of thus defined policy are:

- 1) funds of PFRON (Państwowy Fundusz Rehabilitacji Osób Niepełnoprawnych – the State Fund for Rehabilitation of Disabled People), which functions on the basis of quota-levy system,
- 2) State budget funds.

Poland takes also the advantage of potential co-financing by ESF Action 1.4, implemented within the frame of SOP „Human Resources Development”, which covers, among others, projects supporting persons with severe and medium disabilities who suffer from long-term unemployment as well as those who enter the labour market for the first time or meet serious obstacles accessing this market.

The amount of revenues of PFRON directly influences performance of the system of support for vocational and social rehabilitation and employment of the disabled. These funds, in effect of statutory redistribution, are allocated according to guidelines of state policy to areas calling for strongest support in a form of public resources.

Since 2004, following introduction of the Law of 27 August 1997 on vocational and social rehabilitation and employment of the disabled, expenditures on disabled persons have been considerably rationalised.

On Poland’s accession to EU, the principles of support of employment of the disabled have been altered. Poland has modified the system of support of entrepreneurs in line with European Commission ordinance on state aid in the area of employment. Within the frame of solutions relating to “group exclusions” one can now refund increased cost of employment of disabled persons – meaning those that would not be generated in case of employment of persons without disabilities - to entrepreneurs hiring them. According to EU standards companies may benefit solely from public aid that is equivalent to increased cost of employment of the disabled person. To secure refunding of these costs to the entrepreneur, Polish law has developed several dedicated instruments.

On the basis of the above mentioned Law on vocational and social rehabilitation and employment of disabled persons, support programs in the area of employment of the disabled targeted both at the disabled and their employers both on the sheltered and the open labour market have been implemented.

One of the new essential solutions is the refunding of higher costs related to employment of the disabled, which is available in a form of co-financing of wages of disabled persons (those in pre-retirement age) for a period of one year (with an option of extension for further one-year periods). Co-financing is paid both to employers operating in the sheltered and open labour market (except for employers hiring over 25 employees and with an index of employment of the disabled not exceeding 6%). The above-mentioned reimbursement is also made available via the mechanism of financing of social insurance contributions. It should be emphasized, that both employers operating in the sheltered and in the open labour market may benefit from it.

The next option to receive the refunding of increased costs resulting from employment of disabled persons is the refunding of part of the costs related to the adaptation of workstations

and work site (rooms) to the specific needs of the disabled employees. The refunding is available to employers operating both in the sheltered and the open labour market who employ disabled persons for a period of minimum 36 months. Reimbursement covers incurred costs related to adaptation of existing or developed workstations for those persons, in line with their needs resulting from disability, as well as costs of:

- adaptation of the rooms (working space) within the area of the company in line with the needs of the disabled,
- adaptation or purchase of devices facilitating functioning of the disabled person in the company.

Reimbursement of costs covers exclusively additional costs resulting from employment of disabled persons:

- unemployed and seeking employment while not being employed; referred to given work position by poviát labour office,
- being employed by an employer who applies for reimbursement of costs, provided the disabled were affected by disability during the period of employment by the given employer, except for the cases when disability resulted from the fault of the employer or his/her abuse of the regulations - including labour law provisions.

Since October 2004, an employer is also entitled to reimbursement by PFRON of the monthly costs of employment of employees assisting the disabled in their work, within the scope of activities facilitating their communication with other persons and activities impossible or difficult to be executed by disabled employees on their own in their work-site.

Because of the high rate of disabled employees in sheltered work establishments (on average over 50%) and higher needs resulting from the necessity to secure an availability of reimbursement of costs incurred in relation to employment of those to the employer, additional instruments aimed at minimising such costs are applied. These instruments are:

- tax exemption (real estate tax, agricultural and forest tax and civil-law transactions tax),
- natural persons income tax allowance,
- financial support from PFRON resources (one-time loan for keeping disabled persons' employment positions endangered by liquidation, partial funding (subsidizing) of interest on loans taken for financing vocational and social rehabilitation-related activities, reimbursement of costs of training of disabled employees following the modification of production profile).

Simultaneously, the mechanism of VAT return to employers operating in the sheltered labour market (meaning those who run a sheltered work establishments or vocational activity establishments) is no longer applied.

Tasks within the scope of disabled persons employment policy (executed with the aid of PFRON funding by voivodship self-governments) include financing of the costs of development and operation of those vocational activity establishments in which more than 70% of employees are persons with a certified high degree of disability.

To increase availability of vocational activity of the disabled in the open labour market, financial support coming from PFRON resources is also directly allocated to these persons in the form of:

- loan for initiation of self-employment or agricultural business activities by a person of a pre-retirement age;
- financing (subsidy) of up to 50% of the interest on the bank loan taken for continuation of self-employment or agricultural business activity;
- financing of social insurance contributions of persons initiating self-employment for the first time.

Additional activities stimulating disabled persons are also provided by the Act of 20 April 2004 on promotion of employment and labour market institutions. Article 49 thereof specifies

6 groups of persons within the pool of the unemployed. These are so called “persons operating under special circumstances in the labour market”, and include disabled persons for whom the following instruments have been designed:

- internships – targeted at the unemployed of up to 25 years of age, in whose case entrance into the labour market is handicapped by the lack of vocational experience,
- vocational training in the company – targeted at persons who lack qualifications adjusted to current demands of the labour market,
- grants for continuation of secondary adult education or tertiary evening and extramural education for the unemployed of up to 25 years of age and unemployed who lack vocational qualifications,
- reimbursement of childcare for children up to 7 years of age – in the case of single parents referred to training, internship, vocational training in the company or being employed or otherwise involved in business activities,
- reimbursement of cost of providing care for dependent persons – in situations as defined above.

Moreover, (in accordance with Article 11 of the already mentioned Law on vocational and social rehabilitation and employment of disabled persons) disabled persons registered in a labour office as those seeking employment and currently unemployed may benefit from internships, trainings, intervention works and vocational training in the company in accordance with the principles specified for the unemployed, however, costs of these forms of support are covered by PFRON.

Earmarked programs, financed by PFRON funds, supplement the above statutory solutions within the scope of vocational and social rehabilitation and employment of disabled persons.

Within „Junior” program (supplementary program for National Program for Graduates’ Vocational Activity „First Job”) the support is provided for the unemployed disabled graduates of schools and workshops, who are referred to internship by a labour office.

Some other implemented earmarked programs aimed at vocational activity of disabled persons (in a form of facilitation of gaining vocational qualifications), as well as keeping these persons employed (including provision of financial support to employers hiring unemployed persons, are:

- „Komputer dla Homera” */Computer for Homer/* – implemented since 1999. Program provides financial assistance in purchase of electronic equipment and software enabling work of the blind and persons with partial loss of sight, as well as assistance in financing costs of training in the area of electronic equipment usage;
- „Pegaz” */Pegasus/* – implemented since 1999. Program focuses on assistance in supporting of disabled persons by overcoming transport and communication barriers;
- „Pitagoras – program of assistance in tertiary education of persons suffering from hearing impairment” – implemented since 2000. Program focuses on providing deaf and poorly hearing students and participants of University pre-exam workshops with assistance of sign language translators and electronic assistance equipment;
- „Student” – implemented since 2002. Program provides assistance to disabled persons in receiving tertiary education;
- „Program utrzymania zatrudnienia osób niepełnosprawnych” */Program of keeping employment of disabled persons/* - started in 2002. Program offers assistance to sheltered work establishments in which keeping employment of disabled persons is particularly difficult;
- „Partner 2006” – enables support of projects for disabled persons implemented by NGOs;
- „Program ograniczania skutków niepełnosprawności” */Limitation of the Effects of Disability Program/* – implemented since 2004. Program enabling fast vocational and

social rehabilitation of persons who suffer from loss of physical fitness (detriment to health) and acceleration of the process of their adaptation through supporting activities aimed at limitation of the effects of disability;

- „Osoby niepełnosprawne w służbie publicznej” /*Disabled persons in civil service*/ – implemented since 2003. Program focuses on vocational support of the disabled that remain unemployed or seek employment.

Moreover, in recent years the following earmarked programs have been implemented:

- „Telepraca” /*Telejob*/ (2001-2003) – Pilot program supporting employment of disabled persons in innovative professions characterised by high rate of application of information technology and demand for employees;
- „Szansa” /*Opportunity*/ (2002) – Program of assistance to persons endangered by unemployment resulting from liquidation or winding-up of sheltered work establishments.

Activities aimed at assistance to children and youth endangered by disability, or already disabled, are essential from the point of view of the future of the disabled. Those being executed focus, predominantly, on all levels of education. “Edukacja”, a new program financed by PFRON whose strategic goal is balancing of education access opportunities of disabled children and youth, is one of representative examples.

The responsibility of the Government Plenipotentiary for Disabled People and other entities fulfilling the tasks resulting from the Law on the disabled

According to the Law on vocational and social rehabilitation and employment of persons with disabilities, the Plenipotentiary supervises the implementation of the tasks resulting from the law. The Plenipotentiary is the secretary of state in the office of the minister competent for social security issues. This supervision means:

- 1) co-ordination of implementation of tasks resulting from the law,
- 2) initiating or conducting control of implementation of tasks resulting from the law.

The co-ordination also means that relevant entities send to the Plenipotentiary some information, documents and periodic reports on implementation of tasks resulted from the law. At the same time, co-ordination means organization of workshops and conferences, information provision on issues connected with vocational and social rehabilitation and employment of persons with disabilities. It is also applied to the development of some standards in the field of implementation of tasks resulting from the law and to the implementation of tasks resulting from governmental programmes. Co-ordination also consists in carrying out some activities aimed at limiting effects of disability and eliminating barriers that make it difficult for persons with disabilities to function in the society.

Initiating control relates to the activities in favour of rights of persons with disabilities, activities that implement tasks resulting from the law. The above-mentioned control applies also to the requirements fulfilled by the employer as far as the creation of sheltered work establishments and vocational activity establishments is concerned.

The tasks of the Plenipotentiary also include:

- 1) drafting and consulting legal acts on employment, rehabilitation and working conditions of persons with disabilities,
- 2) drafting governmental programmes solving the problems of persons with disabilities,
- 3) formulating the underlying principles of annual material and financial plans concerning the implementation of tasks resulting from the law,
- 4) initiating activities aimed at limiting effects of disability and elimination of barriers which make it difficult for persons with disabilities to function in the society,
- 5) co-operation with non-government organizations and foundations acting in favour of persons with disabilities.

Government administration bodies, entities of local self-government units and State Fund for Rehabilitation of Disabled People (PFRON), will perform the tasks resulting from the law.

The tasks of the voivodship self-government resulting from the law include:

- 1) drawing up and implementation of voivodship programmes concerning equalization of opportunities of persons with disabilities and counteracting their social exclusion as well as assistance in implementation of tasks in favour of employment of persons with disabilities,
- 2) drawing up and submitting to the Plenipotentiary the information on activities carried out,
- 3) providing assistance to sheltered work establishments,
- 4) co-financing of the construction works of such buildings which are used for rehabilitation purpose taking into consideration the needs of disabled people, excluding demolition of these objects,
- 5) co-financing of the costs of creation and further development of vocational activity establishments,
- 6) co-operation with government administration bodies as well as poviats and gminas in implementation of tasks resulting from the law,
- 7) co-operation with non-government organizations and foundations acting in favour of persons with disabilities,
- 8) giving the opinion on registration of the centres organising holiday rehabilitation stays.

The tasks of the poviat include:

- 1) drafting and implementation, in compliance with the poviat strategy on social problems, the poviat action plans for persons with disabilities in the field of:
 - a) social rehabilitation,
 - b) vocational rehabilitation and employment,
 - c) respecting the rights of persons with disabilities,
- 2) co-operation with government and self-government administration bodies in formulating and implementation of action plans,
- 3) submitting to a competent voivod action plans approved by the poviat board and the annual progress report assessing their implementation. These information should also be available to the Plenipotentiary and voivodship self-government,
- 4) taking up activities aimed at limiting effects of disability,
- 5) drawing up and submitting activities programmes and other information on action carried out. Making them available to the voivodship self-government,
- 6) co-operation with non-government organizations and foundations acting in favour of persons with disabilities in the field of social and vocational rehabilitation of these persons,
- 7) co-financing of:
 - a) participation of persons with disabilities and their guardians in holiday rehabilitation stays,
 - b) sports, culture, recreation and tourism of persons with disabilities,
 - c) provision of rehabilitation equipment, orthopaedic equipment and auxiliary appliances granted to persons with disabilities under separate legislation,
 - d) eliminating of architectural barriers, communication and technical barriers in connection with individual needs of persons with disabilities,
 - e) rehabilitation of children and youth,
- 8) co-financing of costs of creation and functioning of occupational therapy workshops,
- 9) job placement and vocational guidance for persons with disabilities, their training and retraining,

10) referring persons with disabilities, who require specialist programme of training and medical and social rehabilitation, to the specialist training and rehabilitation centre or other training centre,

11) co-operation with pension bodies in the field resulting from separate provisions,

12) legal and economic counselling in the field of running a business or running the rural activity started up by persons with disabilities,

13) co-operation with appropriate local labour inspector who deals with evaluation and control of work places of persons with disabilities.

Poviat centres of family assistance perform part of above-mentioned tasks. If the task relates to vocational rehabilitation of persons with disabilities, it is done by poviat labour offices.

The social partners have mainly advisory role and they give the opinion on government projects. They participate in the process of creation of law and all legal acts concerning the situation of persons with disabilities are consulted with them. **The National Advisory Council for Persons with Disabilities** is a very important forum of co-operation with social partners. The representatives of government administration, local government and non-governmental organisations are included in the Council. The voivodship social councils for persons with disabilities are established by the marshals of voivodships, then by the starosts of poviat - the poviat social councils for persons with disabilities.

b) Socio-economic context of the situation of the disabled

Dynamic description of the situation of the disabled

According to the National Census 2002, the number of the disabled in Poland, at the time of the research, was 5,457 thousand, but 4,450 thousand of people have disability officially certified, out of which 4,326 thousand are aged 15 and above.

According to the Polish Labour Force Survey (LFS), in 2003 there were 4,175 thousand of the disabled aged 15 and above, out of which 2,462 thousand of persons are at the working age (18-59/64 years old). In 2004, the average number of persons with disabilities amounted respectively to 4,167 thousand and 2,458 thousand.

As far as the labour market is concerned, the major problem is low level of **activity rate** of the disabled, which is essential in the case of **people of working-age**.

The activity rate of the disabled in the recent years has decreased, which is shown in Table 1. The situation changed in favour in 2005: the average indicator for three quarters of the year amounted to 23.9%.

A considerably higher activity rate can be observed among men than women: among those aged 15 and above in 2004 the average activity rate was 20.4% for men and 12.3% for women, and among people of working-age respectively: 25.5% and 20.6%.

The activity rate is, as a general rule, higher among people living in the country (aged 15 and above in 2004 – the average activity rate among them amounted to 19.4%) than among the citizens of the cities (2004 – 14.1%), people of working-age respectively: 25.8% and 21.9%.

The activity rate of the disabled, in fact, decreases along with the increase in disability level.

Data clearly illustrate some difficulties on the labour market for people with worse health condition: the activity rate of the disabled aged 15 and above with minor disability was 24.9% in 2004, with moderate disability – 13.4% and with severe disability – 4.7% (for people of working age, according to data for the 3rd quarter of 2005 – respectively 32.4%, 17.6% and 8.8%).

Owing to the fact that the majority of economically active population consist of working people, trends, as far as the shape of the activity rate according to various features is concerned, are confirmed only in case of employment rate of the disabled. In recent years, the decrease in activity rate was accompanied by decrease in employment rate.

Table 1 – The activity rate and the employment rate of the disabled at working age in years 2001 -2004

Years	The activity rate	The employment rate
2001	26,1	20,9
2002	25,8	20,5
2003	23,7	19,1
2004	23,4	18,1

Source: LFS GUS (annual average)

The biggest differences between the activity rate and employment rate are at these groups of people, which have the highest unemployment rate i.e. people aged 49 and above.

The difference between the height of the employment rate and the activity rate is more visible in cities. In the country, where the unemployment rate is much lower, the difference between the activity rate and the employment rate is relatively lower.

Differentiation of the employment rate and the activity rate by gender is very similar, owing to the very similar level of unemployment rate.

The decrease in activity rate and employment rate in recent years applies to the disabled as well as fully able persons. Nevertheless, in case of the disabled, the decrease was higher.

Regardless of the fact that the employment rate decreases in the recent years in both populations, disabled persons work much rarely than fully able persons. In 2004, only 13.1% of the disabled persons aged 15 and above (544 thousand) were employed. The biggest difference between the employment rates applies people at the age 30-54 years old.

Regardless of the general decrease, which takes place in recent years, in the number of the disabled in employment some seasonal phenomenon could be seen in each quarter of the year, with a peak of employment in spring-summer season, i.e. the 2nd and 3rd quarter. This situation is closely connected with farmers working in the rural households. This seasonal phenomenon is more visible in the number of employment rate in the country, where there are more people working in rural household than in cities.

In 2004 there was a clear increase in the unemployment rate among the disabled up to 19.6% (in the 3rd quarter of 2005 – 19.3%). The most frightening is the rate of unemployment among the disabled in the working age – 22.6% in 2004 (22.3% in the 3rd quarter of 2005).

Table 2 – The unemployment rate of the disabled and fully able persons in the working age in years 2001 –2004

Years	Disabled persons	Fully able persons
2001	19,8	18,7
2002	20,5	20,4
2003	19,2	20,1
2004	22,6	19,3

Source: LFS GUS (annual average)

Being the owner of the rural household and working there contributes to the fact that in urban areas the unemployment rate of the disabled was much higher in the years of the research. Population of the disabled in rural areas is very diverse for that reason: the unemployment rate among people not working in rural household is much higher than among those who do.

The unemployment rate of the disabled is generally the highest one in case of people at the age of the highest vocational activity i.e. below 49 years old and there is considerable decrease in older age groups.

For a few years the highest unemployment rate is frequently among the disabled with general secondary education. However, still the rule is that being on unemployment is the most rare for disabled persons with primary education, who are on the average older and less willing to take up employment.

In Poland there are about 4,3 – 4,4 million of disabled persons (including children) with officially certified disability, but disability pensions due to inability to work are given to 3,1 million and social pension – to 252 thousand of the disabled. In the years 1999 – 2003 population of disability pension beneficiaries decreased by 12.4% (since 1999 new system of disability assessment was introduced). Circa 76% of disability pensioners are persons covered by non-farmers social security system.

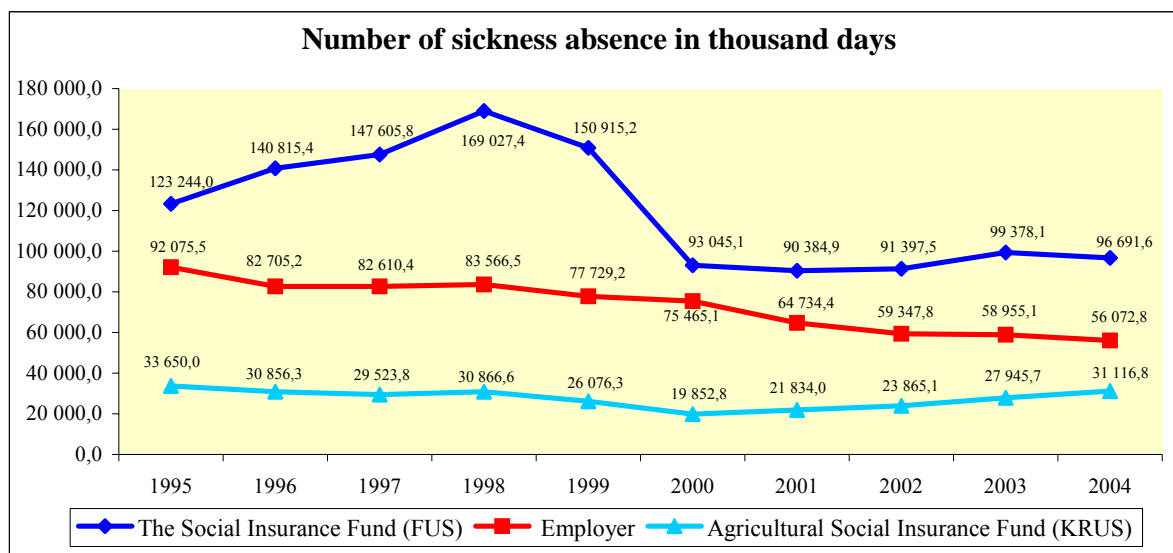
Table 3 – Average number of disability pensioners (in thousand)

Specification	1990	1995	1996	1997	1998	1999	2000	2001	2002	2003
Non-farmers social security system	2187	2629	2672	2708	2735	2740	2678	2565	2438	2323
Individual farmers	441	762	785	793	796	796	794	788	782	776
Total	2628	3391	3457	3501	3531	3536	3472	3353	3220	3099

Source: Statistical yearbook GUS

As far as the number of sick leave absence days is concerned, it could be stated that since 1995 the number of these days decreased. In 1995 the number of sick leave absence days (Social Security Fund) amounted to 215,383 thousand and in 2004 only to 152,795 thousand.

Chart 1



Source: On the basis of ZUS and KRUS data

Due to the significant change in the system of granting sickness leave in 1999, there was a decrease in number of sick leave absence days.

Disability vs. supply and demand on the labour market

The basic sources of problems of the disabled in the labour market in Poland seem to be educational barriers and low quality of education. Compared to those fully able the disabled still suffer from worse access to education, especially tertiary one, and, in effect, worse access to labour market. Nearly 50% of the disabled have just primary education (in 2004 including gymnasium education – 44.5%, aged 15 and above), and the number of the disabled with higher education does not exceed several percent (4.8% in 2004 - LFS GUS). Although there is a system of support for the disabled in the Polish tertiary level of education, it is not unified and transparent. On the level of primary schools, gymnasium and secondary schools education institutions do not fully meet specific educational demands of disabled youth. In spite of technical and financial capacity facilitating education of the disabled, there is still a problem of transforming this capacity into practice. Too often, without recognition of the consequences, individual education for such persons is advised. This means isolation from the peers and knowledge gaps. Subsequently, the disabled have problems with entering Universities and timely graduation thereof. On the other hand, supplementary vocational education within the frame of individual development scheme lacks a universal improvement system focused on increase of knowledge and skills of the disabled. Vocational education should cover not only the general knowledge, but also social communication, information skills and knowledge of foreign languages.

Educational barriers constitute just some of the reasons of limited employment offer for the disabled. From the point of view of employers reasons other than level of education and skills are: perception of the disabled as ineffective employees and their image of problem generating, non-competitive with those fully able persons.

Effectiveness of the policy of employment of the disabled is highly dependent on involvement of the disabled themselves, the employers, trade unions and local authorities. Elimination of unemployment traps seems to be an extremely important element of employment policy. The idea is to avoid a situation where in case of employment increase of income is marginal compared to unemployment benefit and disproportionate to employment-related expenditures (work, transport, etc.).

The main reason of low vocational activity of the disabled seems to be the generally negative picture of the (Polish) labour market. Not only the disabled, but also other unemployed and seeking employment persons find it difficult to get a job. Frequently, low vocational activity of the disabled results from their poor health. Detriment to health often limits their eagerness to accept employment. Moreover, many disabled persons suffer from pretty low self-esteem as far as their capacity to get and perform work is concerned. That is why, to increase vocational activity of the disabled, an emphasis is put on the training. Discussing low vocational activity of the disabled one should also take into account their elderly age. These persons are not really interested in employment. In 2004 out of 4,167 thousand disabled 2,458 thousand were in working age and out of these 446 thousand were employed.

c) Reports, analysis and publications

Publications and analysis:

1. Golinowska S., „Zabezpieczenie społeczne inwalidów w Polsce i innych krajach” /”*Social Protection of the Disabled in Poland and Other Countries*”/, Ministry of Labour and Social Policy, Warsaw 2001
2. Frąckiewicz L., Zrałek M., „Bariery edukacyjne osób niepełnosprawnych” w „Aktywizacja zawodowa osób niepełnosprawnych” /”*Disabled and Educational*

Barriers” in „*Professional Motivation of the Disabled*”/, No. 4/2005, National Economy-Rehabilitation Chamber

3. Majewski T., „Mentalne i emocjonalne bariery w zatrudnianiu osób niepełnosprawnych na otwartym rynku pracy” w „Aktywizacja zawodowa osób niepełnosprawnych” /”*Mental and Emotional Barriers in Employment of the Disabled in the Open Labour Market*” in „*Professional Motivation of the Disabled*”/, No. 4/2005, National Economy-Rehabilitation Chamber
4. Sienkiewicz T., „Bariery funkcjonalne w zatrudnianiu osób niepełnosprawnych na otwartym rynku pracy” w „Aktywizacja zawodowa osób niepełnosprawnych”, /”*Functional Barriers in Employment of the Disabled in the Open Labour Market*” in „*Professional Motivation of the Disabled*”/, No. 4/2005, National Economy-Rehabilitation Chamber
5. Barczyński A., „Wspomaganie finansowe zatrudniania i rehabilitacji zawodowej - bariery i ograniczenia”, w „Aktywizacja zawodowa osób niepełnosprawnych”, /”*Financial Support of Employment and vocational Rehabilitation – Barriers and Limitations*” in “*Professional Motivation of the Disabled*”/, No. 4/2005, National Economy-Rehabilitation Chamber

Reports:

1. Rynek pracy osób niepełnosprawnych 2003-2004 /*Labour Market of the Disabled 2003-2004*/, Ministry of Labour and Social Policy, Warsaw 2004
2. “Zakłady pracy chronionej zatrudniające osoby ze schorzeniami wzroku w 1999 roku – opracowanie na podstawie badań ankietowych” /”*Sheltered Work Establishments Employing Persons with Sight Illnesses in 1999 – study on the basis of questionnaire research*”/, PFRON, Warsaw 2000
3. “Rehabilitacja zawodowa osób niepełnosprawnych w spółdzielczych zakładach pracy chronionej w perspektywie historycznej oraz w ostatnich latach (synteza na podstawie dostępnych informacji) /”*Professional Rehabilitation of the Disabled in Co-operative Sheltered Work Establishments from Historical Perspective and in Recent Years (synthesis based on available information)*”/, PFRON, Warsaw 1999
4. „Raport z badań zatrudnienia i sytuacji ekonomicznej zakładów pracy chronionej w 2003 r.”, /”*Report on the Research in Employment and Economic Situation of Sheltered Work Establishments in 2003*”/ PFRON, Warsaw 2004
5. Osoby niepełnosprawne na rynku pracy w Polsce w 2003 r. /*The Disabled in the Labour Market in Poland in 2003*/, Ministry of Labour and Social Policy, Warsaw, December 2004

B. Income support programmes in Poland

a) Programme characteristics

Social security system for disabled persons covers the following:

- within social insurance, scheme:
 - old-age insurance and disability insurance,
 - accidents, sickness and maternity insurance,
- within social assistance, scheme:
 - payment of benefits,

- institutional care,
- additional activities towards possessing the status of a disabled person by local governments:
 - vocational and social rehabilitation,
 - system of relieves and entitlements,
- within unemployment protection, scheme:
 - payment of unemployment benefits.

Assessment process in Social Security System in Poland

In Poland, from 1st September 1997 assessment for the purposes of the benefit from the Social Insurance Scheme related to work incapacity was separated from assessment of a disability for other purposes.

Assessment for insurance purposes

According to the Law of 17th December, 1998 on pensions from the Social Insurance Fund (Journal of Laws No. 162, item 1118 as amended) and the Law of 20th December, 1990 on social insurance of farmers (Journal of Laws 1998 No. 7, item 25 as amended) and the executive acts accompanying the laws on the degree of disability for work and the inability to exist independently for the purposes of establishing entitlements to benefits from the Social Insurance System decide:

- ZUS authorised physician or KRUS medical experts - as the first authority,
- ZUS or KRUS medical boards-as the second authority.

Yet, an agricultural occupational disease is decided by the proper County Sanitary Inspector.

Outside the agricultural system there are three disability degrees:

- completely incapable of work- a person who has lost ability for any work;
- partly incapable of work - a person who has lost – to a considerable degree – capability for work corresponding to his or her level of qualifications;
- unable to exist independently - in case of disturbing the functioning of the organism the result of which is the necessity of constant or long-lasting assistance of another person in satisfying the basic life necessities.

In case of farmers, an insured is entirely incapable of work in case of losing the ability to work independently on a farm as a result of disturbing the functioning of the organism. The incapacity to work is assessed permanent if the insured does not have a chance to regain the ability to work independently on a farm, while in case in which the insured has a chance to regain the ability to work - the disability to work is considered temporary.

Assessment for other than insurance purposes

According to the Law of 27th August, 1997 on vocational and social rehabilitation and employment of person with disabilities (Journal of Laws No. 123, item 776 as amended) the disability degree for other than insurance purposes is decided by:

- poviats teams for stating the disability - as the first authority,
- voivodship teams for stating the disability - as the second authority.

Poviat and voivodships teams decide about:

- disabled people under the age of 16
- disabled of people who are 16 and older
- indications for relieves and entitlements of people who have statements of disability or inability to work including working on a farm.

One establishes three disability degrees, which shall be applied to achieve the objectives laid down by the law, i.e.: severe, moderate and minor.

Classifying a person under the considerable or moderate disability degree does not exclude a possibility of employing such a person by an employer who does not provide for sheltered

work conditions, in case of obtaining a positive opinion of the National Labour Inspectorate on adaptation by the employer of a workstation to the needs of the disabled person.

Benefits from the social insurance

Disability pension for employees and self-employed person

The insured who fulfil the conditions necessary for acquiring the benefit described in the Law on the old-age and disability pensions from the Social Insurance Fund are entitled to the disability pension .

The disability pension can result either from completely or partial inability to work. The pension of a person partly incapable of work amounts to 75 % of the pension of a person completely incapable of work. An insured person is entitled to this benefit when all of the following requirements are fulfilled:

- is incapable of work,
- has the required pension contribution and non- contribution period,
- the inability to work occurred in the periods precisely defined by the law, i.e.: period of insurance, employment, receiving the unemployed benefit, receiving benefits from the Social Insurance System (the sickness leave or care benefit) or not later than within 18 months after the completion of the periods.

The disability pension is paid by the Social Insurance Institution (ZUS) of the Social Insurance Fund.

Contributory and non- contributory period

The contributory and non-contributory period required for granting a disability pension is different depending on the age of the insured person, at which the incapacity to work occurred. These periods are as follows:

- 1 year, if work incapacity occurred before a person reached 20 years of age,
- 2 years - if work incapacity occurred when a person was 20 to 22 years of age,
- 3 years - if work incapacity occurred when a person was 22 to 25 years of age,
- 4 years - if work incapacity occurred when a person was 25 to 30 years of age,
- 5 years - if work incapacity occurred when a person was above 30 years of age. (the period of required 5 years must fall within the previous 10 year period before the day on which this person submitted a disability pension application or before the day on which work incapacity occurred).

The condition of having the required contribution and non- contribution period is also considered fulfilled when the insured was registered for insurance before the age of 18 or within 6 months after completion of education at the secondary school or a university and his contribution and non- contribution period with or without any pauses until the date of occurrence of the inability to work had not exceeded 6 months.

A disability pension is granted irrespective of the length of the documented contributory and non-contributory periods, when disability to work is caused by an accident on the way to or from work.

Period for which the benefit is granted

A permanent disability pension - in case the disability to work is permanent in character

Temporary disability pension – in case the disability to work is temporary in character.

Evaluation proceeding

Disability to work is assessed for a period not exceeding 5 years, unless according to medical knowledge there is no chance to regain the ability to work before the period is over. Besides, if a person entitled to the disability pension for a period of at least 5 years preceding the day of medical examination lacks less than 5 years to achieve the pensionable age, i.e.: 60 years

for a woman and 65 years for a man, in case of further assessment of inability to work one states inability to work for the period until the day of reaching this age.

The entitlement to the disability pension which expired since the insured regained the ability to work can be restored if within 18 months from the moment the ability was regained the insured became incapable of work again.

Disability pension for farmers

Agricultural disability pension due to incapacity for work can be granted to the insured that fulfils jointly the conditions required for acquiring the benefit described in the law of social insurance of farmers.

The insured (farmer, household member) has the right to the benefit if all of the following conditions are fulfilled by him:

- is permanently or temporarily incapable for work on a farm,
- has the required contribution and non-contribution period,
- completely inability to work on a farm came into being in the period undergoing the pension insurance or not later than within 18 months from the expiration date of the insurance. The pension is paid by KRUS from the old-age and disability pension fund.

Contributory and non contributory period

The insurance period required for granting the pension depends on the age of the person at which the disability to work came into being. The period amounts to:

- 4 quarters – if the insured become unable to work on a farm under the age of 20,
- 8 quarters - if the disability to work on a farm came into being at the age of over 20 up to 22,
- 12 quarters - if the disability to work on a farm came into being at the age of over 22 up to 25,
- 16 quarters - if the disability to work on a farm came into being at the age of over 25 up to 30,
- 20 quarters - if the disability to work on a farm came into being at the age of over 30; (the required 20 quarters should take place in the period of the last ten years before submission of the application for granting the agricultural disability pension due to incapability to work on a farm).

Period for which the benefit is granted

Permanent disability pension can be granted to a person whose inability for work on a farm is permanent.

Temporary disability pension – in case the disability to work is temporary in character is granted for the period specified in the decision, until the moment the insured is covered by another social benefit.

The right to the disability pension which expired since the disability to work in agriculture is gone can be restored if within 18 months from the moment the right to the disability pension expired the insured became incapable of work on a farm again.

Social Pension

The social pension is a benefit which can be granted depending on the place of living of the entitled person in the territory of Republic of Poland.

The social pension can be granted to a person, who jointly meets the following requirements: is of 18 age, is completely incapable of work due to impairment body functions which occurred came into being:

- before reaching the age of 18, or
- in the course of education in school or tertiary level school before reaching the age of 25, or in the course of doctoral studies or post graduate studies .

The social pension can be granted permanently if the disability to work is permanent, or for the period indicated in a decision – if the disability to work is temporary.

The social pension equals 84 % of the amount of a pension for a person completely incapable of work.

The assessment of total incapacity for work is issued by a ZUS medical expert, according to the rules and as a matter described in the Law on pensions from the Social Insurance Fund. The Social Pension is paid by ZUS from the Budget.

Benefits in respect of accidents and occupational diseases (ZUS)

In the common system legal issues concerning benefits subject to accidents at work and occupational diseases were regulated by the Law of 30th October, 2002 on Social Insurance in respect of accidents and occupational diseases (Journal of Laws No.199, item 1673 as amended) and the Law of 30th October, 2002 on social security in respect of accidents and professional diseases which came into being under special conditions (Journal of Laws No. 199, item 1674 as amended).

The accident Law rules do not apply to accidents on the way to or from work. Regulations concerning this issue were transferred to the Law on old age and disability pension from the Social Insurance Fund.

As a result of accident at work or an occupational disease one is entitled among others to the following benefits: sickness benefit, rehabilitation benefit, compensation benefit, lump-sum compensation, disability pension training pension.

Lump-sum compensation

Lump-sum compensation from the outside agriculture system can be granted to the insured whose health was disturbed permanently or for a long time. In the period of 1st April, 2005 – 31st March, 2006 it shall be granted in the amount of 18 % of the average wage in the national economy for every percent of permanent or long-lasting damage to one's health. After this period the percent of the average wage will be increased every year, i.e. up to reaching 20%.

The full amount of the lump-sum compensation depends on the assessed disability percent. At the moment the compensation amount for each percent of permanent or long-lasting damage to one's health is 412 PLN, while due to the statement of full inability to work and inability of the insured to exist independently as a result of an accident at work or an occupational disease is 8013 PLN.

The disability pension and training pension caused by an accident at work or an occupational disease

While establishing the right to the accident insurance pension, for establishing the amounts of the benefits and their payment apply appropriately the rules of Law old age and disability pension from the Social Insurance Fund including the rules Law of the Social Insurance in respect of accidents at work and professional diseases, i.e.: the benefits are granted irrespective of the length of the accident insurance period and irrespective of the date of occurrence of the disability to work as a result of an accident at work or an occupational disease.

The disability pension and training pension caused by an accident at work cannot be lower than:

- 60 % of the pension base – for a person partly disabled to work,
- 80% of the pension base – for a person completely disabled to work,
- 100% of the pension base – for a person entitled to the training pension.

Sickness benefit

An insured is entitled to the sickness benefit in case of becoming disabled to work during the sickness insurance period. The insured come into the right to the sickness benefit after a period of waiting.

The sickness benefit can be granted without the period of waiting among others to:

- former pupils or graduates after fulfilment of the conditions,
- an insured person whose disability to work was caused by an occupational disease, an accident at work (accident insurance benefit) or an accident on the way to or from the work (sickness insurance benefit),

- people who have at 10 years of sickness insurance period.

The sickness benefit can be granted for 182 days and in case of tuberculosis, for 270 day.

The sickness benefit can be granted as 100% of the wage or income being the base of its amount – if the case of the inability to work is an accident at work, on the way to or from the work, occupational disease and also if the inability to work came into being as a result of undergoing indispensable medical examinations for candidates for donors of cells, tissues and organs or undergoing surgery for taking cells, tissues and organs.

Rehabilitation benefit

An insured is entitled to a rehabilitation benefit if after a long period of receiving the sickness benefit the insured is still incapable of work, and further treatment or rehabilitation give a chance to regain the ability to work. It can be granted for the period indispensable for restoring the ability to work, but not longer than for the period of 12 months.

The rehabilitation benefit can be paid from the sickness or accident insurance.

It is paid as 90% of the income (from the sickness insurance) and 75% of the income (from the accident insurance).

Compensatory allowance

An insured is entitled to a compensatory allowance if he is an employee with decreased ability to work whose wage was decreased subject to undergoing professional rehabilitation for adopting or train for new profession. The benefit can be granted for the rehabilitation period, however no longer than for 24 months.

If the necessity of undergoing the professional rehabilitation was caused by an accident at work or a disease, the compensatory allowance is paid from accident insurance, in other cases it is paid from the sickness benefit.

The compensation benefit is the difference between an average monthly wage for the period of 6 or 12 months proceedings the rehabilitation and the monthly wage reached while working with the decreased wage.

Accident and occupational diseases benefits (KRUS)

In agricultural system legal issues concerning benefits subject to accidents which occurred at work, on the way to work and occupational diseases are regulated by the Law on social insurance for farmers.

The benefits from accident, sickness and maternity insurance are among others:

- lump sum compensation due to permanent or long-lasting damage to someone's health or death as a result of accident at work on a farm or agricultural occupational disease,
- sickness benefit,

The benefits from the pension insurance are among others:

- agricultural disability pension which came into being as a result of accident or occupational disease,
- training pension – for the insured whose retraining was assessed as appropriate due to incapacity to work on a farm.

Lump-sum compensation

Lump-sum compensation due to permanent or long-lasting damage to someone's health or death as a result of accident at work on a farm or agricultural occupational disease is established proportionally to specified in percentage permanent or long-lasting damage to someone's health. At present, the amount of the compensation or each percent of constant or long-lasting damage to someone's health is 470 PLN.

Sickness benefit

An insured person (farmer, his spouse, household member) is entitled to this benefit if as a result of disease this person is unable to work uninterruptedly for at least 30 days, but not longer than 180 days. If after this period the insured is still unable to work and as a result of

further treatment and rehabilitation he has a chance to regain the ability to work, the benefit period prolongs by another 360 days maximum. The basis for granting and payment of the sickness benefit due to temporary inability to work lasting over 180 days is a statement issued by a medical expert or a medical board.

The insured person receives 7 PLN for every day of inability to work as a result of a disease. Benefits from the accident, sickness or maternity insurance are paid from KRUS contributions fund.

Agricultural disability pension as a result of an accident or an occupational disease

The benefit is granted on the same rules as agricultural disability pension. The exception is that the insured does not have to fulfil the contributory and non-contributory period required for granting the disability pension in other cases.

Overlapping of the entitlement to benefits

In the case of the overlapping of the entitlement to several benefits provided for in the Act in the hands of one person, one of those benefits is paid – the higher one or the one selected by the person concerned with one exception in a case when a person is entitled both to old-age and disability pension due to an accident at work or an occupational disease. Such a person can collect: old-age pension increased by a half of the disability pension or a disability pension increased by a half of old-age pension if there is no other income received.

In agricultural system one can choose only one benefit.

Suspension or reduction of benefits

The rule of suspension or reduction of benefits in case of receiving income applies both to people entitled to old-age and disability pensions and accident insurance. The whole of beneficiaries undergo the provisions of the Law of old-age and disability pensions from the Social Insurance Fund or the Law on social insurance for farmers.

Medical rehabilitation

Medical rehabilitation within ZUS prevention

ZUS carries out tasks within disability pension prevention on the principle of the Law of 13th October, 1998 on the Social Insurance System (Journal of Laws No. 137, item 887 as amended) and accompanying executive acts.

The Social Insurance Institution carries out medical rehabilitation program within disability pension prevention directed to:

- people at the working age insured at ZUS,
- people with muscular-skeletal, circulatory system or respiratory system or psychosomatic diseases as the most common reasons for disability to work,
- people temporarily unable to work but at the same time with a chance to regain the ability to work after the completion of the rehabilitation.

The costs of stay in a rehabilitation centre together with travel expenditures are covered by ZUS.

The basis for sending a person to a rehabilitation centre is a statement of the necessity of curative rehabilitation issued by a ZUS authorised physician.

Medical rehabilitation within KRUS prevention

KRUS carries out tasks within disability pension prevention on the principle of the Law on social insurance for farmers and accompanying executive acts.

People entitled to the rehabilitation:

- people at the working age insured at KRUS, people who on motion undergo full accident, sickness or maternity insurance uninterruptedly for at least 18 months before submitting an application for a medical rehabilitation the period is not demanded if the person had an accident at work on a farm.

- people of risk of completely incapable of work on a farm but with a chance to regain the ability as a result of treatment and rehabilitation
- having the established entitlement to temporary agricultural disability pension if they retained the ability to exist independently.

The costs of stay in a rehabilitation centre together with travel expenditure are covered by KRUS from the contribution fund.

The basis for sending a person to a rehabilitation centre is the statement of the necessity of curative rehabilitation issued by a KRUS medical expert in an assessment proceedings aiming at establishing the right to the benefit from the Social Agricultural Fund including orders for curative rehabilitation.

Social Assistance System

Social assistance in Poland functions on the principle of the Law of 12th March, 2004 on social assistance (Journal of Laws No.64, item 593 as amended) accompanying executive acts.

Social assistance is given to people mostly due to: poverty, homelessness, unemployment, disability and long-lasting or heavy disease;

A social assistance centre and the poviast centre for family assistance can direct applications for establishing the disability to work, disability and its degree to organs defined by other rules.

Permanent allowance

The allowance can be granted to a disabled person if the person has assessment of completely disability due to age or disability and fulfils the income criterion.

The permanent allowance cannot be granted in case of overlapping of the entitlement to the permanent benefit and social benefit, the nursing benefit or the single parent benefit and losing the right to the unemployed benefit subject to expiration of the statutory period for which it was granted.

The amount of the permanent allowance in 2005 could be neither lower than 30 PLN a month nor higher than 418 PLN a month,

Temporary Benefit

The temporary benefit is granted in particular due to a long-lasting disease, disability, unemployment if the income demand is fulfilled. Unlike the permanent benefit it provides an opportunity to keep or acquire the entitlements to benefits from other social security systems.

The amount of the temporary benefit in 2005 could be neither lower than 20 PLN a month nor higher than 418 PLN a month,

The Gmina Council can pass a resolution increasing the minimal amounts of the temporary benefit.

Purpose benefit

In order to satisfy an indispensable life need one can be granted a purpose benefit. It can be granted for covering fully or partly the costs of buying food, medicines, fuel, clothes, indispensable every day home use objects, small renovation and repairs in a house as well as the costs of a funeral.

It is granted to people having no income and possibilities of receiving benefits on the basis of the rules of common insurance in the National Health Fund to cover fully or partly the expenditures for health services.

The benefit can be granted in form of a credit ticket or an interest free loan

Assistance for reaching economic self-sufficiency

The financial help can be granted in a form of a lump-sum earmarked allowance or an interest free loan. The loan can be fully or partly remitted, if it shall contribute to faster achievement of the social assistance aims. Detailed conditions and the mode of granting and

repayment of the special allowance for becoming economically independent are defined by a gmina administrative unit resolution.

The help in a material form consists in making available machines and working tools providing an opportunity to organize own workshop as well as appliances making disabled people's work easier. These objects are made available on the basis of a loan agreement.

Help within the social work

Such assistance is granted to disabled people with limited movement or communication abilities to provide them with the possibility to play a socially active role and to integrate with their environment. In particular, it may consist in helping to achieve and use communication and information transfer means as well as adapting flats to limitations resulting from their disability. Here the gmina administrative units co-operate with social organizations.

Environmental assistance

Nursing services and specialist nursing services

These nursing services shall be granted to a person who due to age, illness or other reasons requires other person's assistance. Nursing services include assistance in meeting vital daily needs, hygienic care, nursing recommended by physicians and, if possible, ensuring contacts with the environment. Specialist nursing services are adopted services to special needs ensuing from the type of disease or disability, provided by people with specialist training. The scope of nursing services as well as the period of lasting is determined by a Social Assistance Centre while the Gmina Council defines, by way of a resolution, detailed granting and payment conditions.

Support centres

People who due to age, disease or disability demand partial care and assistance in satisfying indispensable life needs, can be granted nursing services, specialist nursing services or a meal, provided in assistance centres.

These are in particular: local self-assistance homes, day-care assistance homes, hostels, care centres.

Sheltered apartments

Stay in a sheltered apartment can be granted a person who, due to a difficult life situation, age, disability or disease, requires support in everyday functioning, but does not require services to the extent provided by a 24-hour care unit. A sheltered apartment is a form of social assistance that prepares persons staying there under the care of specialists, to live an independent life, or substituting the stay at a 24-hour care establishment. A sheltered apartment provides conditions for independent functioning in the environment, ensuring integration with the local society.

Social assistance houses

A person who requires 24-hour care due to age, disease, or disability, who may not function independently in everyday life, and who may not be ensured necessary assistance in the form of attendance services, shall be entitled to be placed in a social assistance house. The social assistance house has provide living, attendance, support, and educational services at the level of applicable standards, of the scope and in the forms as resulting from individual needs of persons staying there. Social assistance houses depending on who they are designated for are divided into houses for e.g. physically disabled persons.

Expenditures connected with ensuring 24-hour care for the inmates and satisfying their necessary living and social needs shall be covered in full by the social assistance house concerned.

A decision on referral to a social assistance house and a decision determining the payment for the stay at a social assistance house are issued by the body of the competent gmina with respect to that person.

One may be exempted, in full or in part, from the obligation to make such payments, if arose justified circumstances, in particular, i.e. a long-term disease, unemployment, disability, death of a family member, material losses suffered as a result of a natural disaster or other misfortunes of fate.

Benefits due to protection against unemployment of disabled people

Protection against unemployment is realized based on provisions of the Law of 20th April, 2004 on promotion of employment and labour market institutions (Journal of Laws No. 99, item 1101 as amended).

The term „unemployed” applies to:

- unemployed former pupil, that is a disabled person who in the period of 12 months since the day specified in the diploma, certificate of the school or course completion or acquired qualifications to work in the profession,
- a disabled person who is not employed and does not perform any other gainful work, not learning in a daily school system, whose health condition allows for undertaking at least part-time employment in a definite profession or service and is registered in a local poviat labour office .

Unemployment benefit

The basic benefit due to unemployment paid from the Labour Fund is unemployment benefit. The amount of the benefit varies depending on the length of the periods entitling to receiving the benefit while the period of receiving it depends on unemployment rate in the territory of activity of the local labour office.

The entitlement to the benefit shall be granted to a person who will prove that within 18 months proceeding the day of registration in the labour office jointly for the period of at least 365 days, for example was employed, was subject to social insurance and the contribution for Labour Fund was paid.

To the period entitling to the benefit one also includes: the period of collecting benefits from the social insurance system if the base amount of the benefit was the amount which is at least equal to the minimum wage after deduction of the amount of employee due social insurance contributions. Besides, one accounts the guaranteed temporary benefit collecting from the social assistance system.

Unemployed people whose benefit contributory period amounts for at least 20 years are entitled to 120 % of the basic benefit amount.

Basic monthly benefit in the year 2004 was 504,20 PLN.

Pre-retirement allowances and pre-retirement benefits

Only people, who registered as unemployed by the end of December 2001 are entitled to pre-retirement allowances.

Pre-retirement benefits

Pre-retirement benefits entitled before 1st August 2004 are granted by Poviats Labour Offices on the basis and in the amounts resulting from the Law of 14th December, 1994 on employment and unemployment prevention (Journal of Laws 2003 No. 58, item 514 as amended). Since 1st August 2004 the benefits have been granted by ZUS body pension assessment on rules and in the amounts resulting from the Law of 30th April, 2004 on pre-retirement benefits (Journal of Laws No. 120, item 1252).

Both of the benefits are financed from the State budget.

Conditions required for granting the pre-retirement benefit

The benefit can be granted to a person with an unemployed status and:

- received unemployment benefits for at least 6 months and after that time is still registered as the unemployed person,

- in time of receiving unemployment benefits didn't refuse without justified reason a proposal of suitable employment or other gainful work or subsidised jobs and public works.

Pre-retirement benefit may be granted after fulfilment of criterion to a person who:

- before the day of employment relationship or service relationship termination for reasons concerning the establishment for example liquidation or insolvency of employer, with whom person was employed and remained in service relationships for a period not shorter than 6 months, has reached at least the age of 56 years (woman) and 61 years (man) and has completed a period entitling to the old-age pension, equal to at least 20 years for women and 25 years for men, or has reached at least the age of 55 years (woman) and 60 years (man) and has completed a period entitling to the old-age pension, equal to at least 30 years for women and 55 years for men;
- age criterion is not obligated the person, who has completed a period entitling to the old-age pension, equal to at least 34 years for women and 39 years for men;
- has registered in a competent poviát labour office within 30 days from the day of cessation of the right to disability pension, received during an uninterrupted period of at least 5 years, and before the day of cessation of this right he or she has reached at least the age of 55 years (woman) and 60 years (man) and has completed a period entitling to the old-age pension, equal to at least 20 years for women and 25 years for men.

The pre-retirement allowances were linked to the level of unemployment benefits, while the pre-retirement benefits are linked to the accrued old-age pension. The pre-retirement benefits are linked to the recent receiving disability pension, if the benefit has granted person, who previously received disability pension.

The entitlement to the pre-retirement benefit and allowance shall be terminated:

- on the day proceeding the day of obtaining the entitlement to the old-age pension,
- on the day of reaching the pensionable age (60 years-women, 65 years –men).

Benefits by virtue of possessing the status of a disabled person

Vocational and social rehabilitation of disabled people

On based on the rules of the Law on vocational and social rehabilitation and employment of persons with disabilities and accompanying executive acts are carried out task in respect of vocational and social rehabilitation.

Rehabilitation of persons with disabilities means a set of activities, in particular of organizational, medical, psychological, technical, training, educational and social character, aimed at achieving, with active participation of these persons, possibly highest level of their functioning, life quality and social integration.

The social rehabilitation

Social rehabilitation is aimed at enabling the disabled persons to take part in the social life. It is carried out first of all by:

- developing individual resourcefulness and mobilizing social activity of persons with disabilities,
- developing an ability to independently fulfil social roles,
- removal of barriers, in particular of architectonic character, in town planning, in transport, communication and access to information,
- developing in the society the appropriate attitudes and behaviours favouring integration with disabled persons.

Vocational rehabilitation

Vocational rehabilitation is aimed at facilitating to a person with disability to find and keep an appropriate employment, and to acquire and maintain vocational advancement.

It is carried out first of all by:

- assess the ability to work, in particular by:

- medical and psychological examinations allowing to assess physical, psychical and mental ability to perform an occupation and to assess possibilities of increasing this ability,
- determining the qualifications, vocational experience, abilities and interests,
- carry out vocational guidance taking into consideration the assessment of ability to work and allowing for the choice of appropriate occupation and training,
- provide vocational preparation taking into consideration employment perspectives,
- select an appropriate job and to equip the workstation,
- determine technical measures enabling or facilitating job performance, and if needed – orthopaedic equipment, auxiliary appliances, rehabilitation equipment, etc.

The main forms of activity supporting vocational and social rehabilitation process of disabled persons shall include participation of these persons in occupational therapy workshops or holiday rehabilitation stays.

The workshop means an organizationally and financially independent institution, which provides persons with disabilities unable to work with an opportunity of social and vocational rehabilitation in the field of acquiring or restoring skills necessary to undertake employment.

Within the activity of workshop one carries out occupational therapy techniques, worked out based on individual rehabilitation programmes.

The workshop shall have its programme board. The board carries out a periodic evaluation and, at least once each three-year period, a complex evaluation of implementation of the individual rehabilitation programme of workshop participant and takes a position on achieved progress in rehabilitation, justifying:

- employment and continuation of vocational rehabilitation in conditions of sheltered work or on an adapted workstation,
- the need to refer persons with disabilities to a support centre, in the understanding of legislation on social assistance, on account of no progress in rehabilitation and negative forecast as concerns a possibility of such progress, which would justify employment and continuation of vocational rehabilitation in conditions of sheltered work or on the labour market after further rehabilitation in the workshop,
- prolonged participation in the therapy due to:
 - positive forecast as concerns future progress in rehabilitation, which would justify employment and continuation of vocational rehabilitation in conditions of sheltered work or on the labour market,
 - periodic lack of possibilities to start employment,
 - periodic lack of possibilities to refer persons with disabilities to the support centre.

The holiday rehabilitation stay means an organized form of active rehabilitation combined with the elements of rest, aimed at general improvement of the psycho-physical efficiency and at development of social skills of participants, among others by entering into and developing social contacts, realization and development of interests, as well as by participation in other occupations provided for in the programme of the holiday rehabilitation stay.

The persons with disabilities are referred to participation in:

- the workshop – in accordance with recommendation in the decision on assessing the disability or disability degree,
- the holiday rehabilitation stay – on the application of the doctor, who takes care of a given person.

Co-financing by the State Fund for Rehabilitation of Disabled People (PFRON)

From resources of PFRON are co-financed:

- provision of rehabilitation equipment, orthopaedic equipment and auxiliary appliances granted to persons with disabilities under separate legislation,
- liquidation of architectonic barriers, barriers in communication and technical barriers, in connection with individual needs of persons with disabilities,

- participation of persons with disabilities and their guardians in holiday rehabilitation stays. The person with disability may apply for co-financing from the PFRON, if fulfil income criterion. Additional, in case co-financing of rehabilitation equipment, the person should proved need of having this equipment.

Moreover, a disabled person may apply for co-financing from the PFRON in case of task within liquidation of functional barriers if it realisation enables or facilitates the disabled person's daily activities or better contact with other people.

The co-financing from PFRON resources are limited.

Supplementary privileges for disabled people

1. Tax system in Poland and disabled people

Benefits exempted from income tax on the principle of provisions of the Law of 26th July, 1991 on personal income tax (Journal of Laws 2000 No. 14, item 176 as amended):

- benefits for professional, social and curative rehabilitation of disabled people
- benefits from the social attendance,
- value of benefits due to entitlements to reduced travel by railway and buses or free rides on public transport,
- value of benefits due to exempts from TV and radio license fee,

Additionally due to disability one is entitled to rehabilitation relief, i.e. income deductions of expenditures for rehabilitation and expenditures connected with facilitating performing life activities incurred in the tax year by a taxpayer being a disabled person or a taxpayer who supports disabled people. Majority of rehabilitation expenditures are not limited.

Sine qua non for the deduction is having a document certifying the disability. The above right to the reduction shall be granted if these expenditures have not been financed from the means of company Disabled Persons Rehabilitation Fund, PFRON or from the means of NFZ, Company Social Benefits Fund or have not been returned to the taxpayer in any form. In case of partial subsidizing of the expenditures from the funds, one shall deduct the difference between the incurred expenditures and the subsidy or the amount returned in any form.

2. Entitlements at work

The working time of a disabled person may not exceed 8 hours a day and 40 hours a week while the working time of a disabled person reckoned towards severe or moderate disability degree may not exceed 7 hours a day and 35 hours a week. The person with disability may not be employed at night and in overtime. The entitlements are not absolute in character since some exceptions are allowed depending on the kind of the carried out work and health situation of the disabled employee. The disabled person shall have the right to additional break at work for rehabilitating gymnastics or for rest. The break shall be of 15 minutes duration and shall be reckoned towards working time. This shall not result in reduction in wage payable in fixed monthly amount.

Vacations

The person reckoned towards the severe or moderate degree of disability shall have the right to additional vacation leave at the rate of 10 working days in calendar year. The right to the first leave shall be acquired after working one year from the day of being reckoned towards one of these disability degrees. The leave referred to in paragraph 1 shall not be granted to a person who has the right to vacation leave at the rate exceeding 26 calendar days or to additional leave granted under separate legislation. Moreover, the person with the severe or moderate degree of disability shall have the right to release from work with the retained right to wage:

- at the rate of 21 working days to participate in holiday rehabilitation stay, not more frequently than once a year,

- to undergo specialist medical examinations, medical intervention or therapeutic rehabilitation, as well as to receive orthopaedic equipment or its repair, if these activities may not be carried out outside of working hours. The total rate of additional leave and release from work to participate in rehabilitation may not exceed 21 working days in a calendar year.

3. Rides on public transport

According to the Law of 20th June, 1992 on entitlements to reduced rides on public transport (Journal of Laws 2002, No.175, item 1440 as amended), entitlements to reduced rides on public railway transport shall be granted in second class in definite domestic train categories only and on the basis of definite kinds of tickets. According to the provisions among others disabled people are entitled to this reduction:

- invalid or disabled children and teenagers until reaching the age of 24 (students up to the age of 26) are entitled to 78% reduction for rides on railway and bus public transport in case of purpose rides defined by the Law, i.e. to get to school, in rehabilitation-curative purposes, etc.
- people incapable of independent existence are entitled to 49% reduction on passenger trains and ordinary bus transport and to 37% reduction on other kinds of buses and trains;
- blind people are entitled to 37% reduction for rides on public railway and bus transport .

Domestic bus carriers receive from province self-governments subsidies to this transport due to statutory reductions in passenger transport.

Exemption from license fees

According to the Law of 21st April, 2005 on license fees (Journal of Laws No.85, item 728 as amended), exempt from TV and radio license fees shall be granted to:

- people assessed as:
 - disabled people of group I- people who are totally incapable of work and unable to exist independently or of a considerable disability degree or
 - permanent or temporary incapacity to work on a farm entitled to the nursing benefit;
- people assessed as totally deaf or people with double-sided auditory impairment ;
- blind people whose sight acuity does not exceed 15 %.

The above exempt shall not be granted to people staying in a shared household with at least two people who have reached the age of 26 and do not satisfy the demands for these relatives.

Supplementary benefits from the social security system

Care allowance supplement

The care allowance supplement can be granted to a person entitled to an old-age or disability pension if the person was found completely incapable of work or work on farm and for independent existence or has reached the age of 75. However, it cannot be granted to people entitled to an old-age or disability pension or staying in a nursing-therapeutic or nursing institution unless the person stayed outside the institution for a period longer than 2 weeks a month.

Nursing benefit

The nursing benefit is granted in order to partly cover the expenditures resulting from the necessity of providing a disabled person with care and assistance of another person in connection with inability to exist independently. In accordance with the Law of 28th November, 2003 on family benefits (Laws of Journals No. 228, item 2255 as amended) the nursing benefit can be granted among others to:

- a disabled person at the age of above 16 having a statement of a considerable degree of disability,
- a disabled person at the age of above 16 with a moderate disability degree if the disability came into being before reaching the age of 21,

- people, who have reached the age of 75.

The nursing benefit cannot be granted to:

- a person staying in an institution providing 24-hour board if the person's stay and the benefits the person is granted are at least partly financed from the State budget or the National Health Fund,
- a person entitled to the care allowance supplement.

b) Recent reforms of the Social Security system of disabled people

In Poland like in other countries reforms of the social security system of disabled people are an extensive part of labour market and social policy reforms.

The Law of 27th August, 1997 on vocational and social rehabilitation and employment of disabled people (which took effect on 1st January, 1998) substituted the Law of 9th May, 1991 on employment and vocational rehabilitation of disabled people which was the first extensive law devoted to issues of disabled people and made it possible to form in the Ministry of Labour and Social Policy the post of the Government Plenipotentiary for Disabled People and establishing the State Fund for Rehabilitation of Disabled People (PFRON). After the year 1997 the binding Law was amended many times to adjust the existing mechanisms to the changing reality. First of all, since 1st September 1997 the traditional term of invalidity, i.e. (I, II, III groups) was substituted with the term disability to work (completely or partial). Moreover, the assessment for the purposes connected with social insurance benefits subject to disability to work was separated from assessment disability for other than insurance purposes. One has to emphasize the fact that despite a kind of double assessment there is no need to get by a person who is found disabled to work (by ZUS or KRUS) a decision on the degree of disability issued by the assessing team in order to receive suitable relieves and other entitlements. In 2001 one introduced the necessity of assessment of the disability of person under the age of 16 and have disturbed physical fitness for at least 12 months, due to that the nursing allowance from the social assistance system can be granted on the basis of a decision. The aim of the change of the Law on rehabilitation... in 2003 apart from achieving full compliance with EC legislation was first of all the change of the disabled people support system and providing actions for equal opportunities, for example by:

- creating more consistent system of disability assessment, the use of common standards and strengthened supervision;
- addressing public assistance to definite disabled people;
- activating disabled people on the open and sheltered labour market based on individual rehabilitation programs.

Besides, after introducing the political reform of the country the local territorial self-government was granted the rights to support the employment of disabled people, which earlier belonged to the voivodships. As a result it provides disabled people with a possibility of equal access to vocational and social rehabilitation irrespective of the place of living.

As a result of public administration reform many tasks resulting from the Law on vocational rehabilitation... were taken over for realization by powiat authorities, which resulted in decentralization of considerable PFRON resources.

The fact that the Powiat Councils which have the best insight into the needs of inhabitants of a particular region permits to use PFRON funds reasonably in accordance with the needs of the disabled people in the Powiat.

Since 1st October 2003 the social pension is granted by ZUS (previously it was a benefit from social assistance). Thanks to this the social pension undergoes more beneficial valorisation and what follows provides disabled people for whom it is the only income with better protection against poverty. Besides, realization of the benefit by ZUS guarantees prompt

payment of the benefit to the disabled person through the agency of the post or a bank transfer.

In January 2003 one introduced new regulations concerning accidents at work and occupational diseases. The Law of 30th October 2002 on social insurance in respect of accidents at work and occupational diseases (Journal of Laws No. 109, item 1673, as amended.) substituted the Law of 1975 on benefits in respect of accidents at work and occupational diseases. The above mentioned change was done within continuation of social insurance reform carried out at the beginning of 1999. The new law specified the scope and way of granting benefits in case of an accident at work or occupational disease. First of all one introduced the rule that all benefits shall be paid by ZUS (except for agricultural benefits paid by KRUS), and not as it was previously practised in some cases by the employer which complies with the essence of accident insurance in case of which the employer buys an insurance policy against the risk of financial consequences connected with an accident at work. Another change is the transfer of benefits subject to accidents on the way to and from work from the accident insurance to the benefits from the disability pension and sickness funds. What is more, the amount of contributions paid by the employees and those paid by the employer, which as a result is to stimulate their actions for the benefit of rising the standards of occupational safety and health.

An amendment to the Law of April, 2004 r. on pensions from the Social Insurance Fund and other selected laws (Journal of Laws No. 121, item 1264) of 1st January, 2005 introduced second instance in evaluation proceedings. The assessment unit of the first instance is ZUS medical experts, the second instance – ZUS medical boards. The amendment of the Law of July 2005 on pensions from the Social Insurance Fund and the Law on Social Insurance System (Journal of Laws No. 169, item 1412) modified the rule of establishing the disability to work period. Namely, since November, 2005 the disability to work is assessed for a period not exceeding 5 years, unless according to medical knowledge there is no chance to regain the ability to work before the period is over, then the disability to work is assessed for a period longer than 5 years. The new regulations also determine that people who benefited from the disability to work pension for at least 5 years and lack not more than 5 years to reaching the pensionable age, then in case of further assessment of a disability to work, the pension is granted until the day of reaching by such a person the pensionable age. After reaching the pensionable age such people are guaranteed the right to the pension granted from the office in the amount equal to the amount of the disability pension collected by them.

Currently, are carried on works on preparation of solutions which will allow rebuild and integrate the support system for disabled people. Within this, one is planning carrying out PFRON reforms aiming at increasing the professional activeness and employment of disabled people, especially on an open labour market. Besides, there are plans regulate the system of disability pensions in such a way as to provide such an amount of the disability pension which would be correlated with the amount of the old-age pension granted based on the state of ZUS account. This will allow limit the phenomenon of mass attempts to „escape” to the disability pension benefit before reaching the pensionable age in order to receive a higher benefit.

c) The relationship between various social protection programmes

The social assistance and protection against unemployment

The lack of entitlements to disability pension benefits from the social insurance system and short period of collecting unemployed benefit (i.e. 6-18 months) often causes that disabled

people receive benefits from the social assistance, i.e.: temporary allowance and purpose allowance. As the name indicates these are only temporary solutions. Besides, such persons are entitled to financial or material aid from the social assistance system for becoming economically independent if not given aid for this from another source. In order to determine the right to the aid Gmina co-operates with Powiat Labour Office.

The Starost, on motion of gmina administrative unit can send an unemployed who benefits from social assistance without the right to unemployment benefit to socially useful works in the place of living or staying in the amount of 10 hours a week.

The unemployed having no right to unemployment benefit is entitled to the benefit of 6 PLN per each hour of carried out social work.

The Starost refunds gmina administrative unit from the Labour Fund up to 60 % of the minimal amount of the benefit the unemployed is entitled to. The unemployed is not entitled to the above mentioned benefit for the period of not carrying out the work including the period of documented disability to work.

Disability and early pensions

In Poland people who were born before January 1969 are entitled to earlier pension if they have not entered to one of Open Pension Funds and will acquire the right to the benefit before 31st December, 2007 under the following conditions:

- women can retire having reached the age of 55 if they possess at least 30-year contributory and non-contributory period or have at least 20-year contributory and non-contributory period and have been recognized as completely incapable of work;
- men having reached the age of 60 if they have at least 25-year contributory and non-contributory period and have been recognized as completely incapable of work;

A person who takes early retirement after the disability pension opposite to other people does not have to have the six months worker's insurance, however the worker's insurance has to be the last insurance the worker was subject to.

Accidents at work and disability

According to rules of the Law on Social Insurance in respect of accidents at work and occupational diseases, an employee who had an accident at work and did not violate the occupational safety and health rules is entitled to a benefit from the work accident fund from the Social Insurance System.

Apart from that, according to the rules of the Law on vocational and social rehabilitation and employment of persons with disabilities, an employer is obliged to separate or organize an appropriate workstation with basic social facilities to an employee, who in result of an accident at work or an occupational disease has lost ability to perform work at earlier post and was assessed as a disabled person not later than within the period of three months from the date of declaring by the person the willingness to start working. The employee should inform the employer about his willingness to work within a month from the moment of being assessed as a disabled person.

In case the employer does not organize a suitable workstation within the established term, then on the day of dissolution of the work relationship with the disabled employee the employer is obliged to make a payment into PFRON's account in the amount of fifteen average monthly remunerations for the employee.

C. Employment support programmes

a) Medical assessment of disability

There are two systems of assessing disability: the first one concerns assessment of inability to work which serves as a basis for granting entitlement for disability pension – this assessment

is performed by medical services of ZUS (Social Insurance Institution), the second one concerns opportunity to participate in employment programs for disabled and is performed by *Powiat* Offices for Assessment Of Disability. The assessment attestations issued by medical services of ZUS are treated as equivalent to those of *Powiat* Offices for Assessment Of Disability.

A person is considered to be incapable of work if he or she has lost earning capacity due to impairment of body functions and retraining cannot restore his or her earning capacity. There are three categories of disability certificates issued by ZUS: the first category concerns those, who have lost capability for any work and independent existence, the second refers to those who have lost capability for work to a considerable degree, the third category - to partial lost of capability for work . The corresponding categories of *Powiat* Offices' assessment are: severe, moderate and minor degree of disability.

b) Medical and non-medical rehabilitation

The medical rehabilitation for the disabled is provided by ZUS and – in case of the employed disabled - by sheltered work establishments. ZUS is responsible for disability prevention programmes for insured and temporarily unable to work. The costs of medical and rehabilitation procedures, accommodation and travel costs are covered by ZUS. The sheltered work establishments should provide specialist medical care on a day-to-day basis and organize individual rehabilitation programmes for disabled employees. The financial means for rehabilitation activities performed by sheltered work establishments are established within ZFRON (Zakładowy Fundusz Rehabilitacji Osób Niepełnosprawnych - Enterprise's Fund for Rehabilitation of Disabled People), which is described in details in the next subsection.

The disabled who fulfil income criterion (up to 50% of average salary per member of the household, up to 60% of average salary in case of one-person household) are entitled to participate in rehabilitation leave co-financed by PFRON. The costs covered by PFRON amount to 23-27%, depending on the degree of disability. If the disabled is employed in sheltered work establishment, this amount is lower – about 18% of average salary. However, disabled persons in particularly difficult financial situation can receive 35% of financing.

There is also a possibility to organize therapy workshops (which formally do not belong to the employment programmes), aimed at rehabilitation and increasing employability of the disabled. The participants can receive 20 % of minimum salary.

c) Main activation and employment measures for sick/disabled people

- Jobs offered by supported work establishments

1. conditions of eligibility, entitlements and coverage, delivery procedures

The sheltered work establishments are required to hire higher percentages of persons with disabilities than normal firms (40% of employees must comprise of disabled, of which 25% must be of severe and moderate degree of disability), and in return they receive certain forms of preferential treatment. In the sheltered work establishments more stringent safety requirements at work have to be met and certain medical and rehabilitation services had to be provided to disabled employees.

2. funding structures

As compensation for stricter requirements, the sheltered work establishments enjoy preferential tax treatment – e.g., they are exempt from certain taxes, including income tax, real estate tax, donation and inheritance tax, agricultural and forestry tax, transport tax, and VAT. In addition, the income tax that the sheltered work establishments withhold from disabled workers' wages are earmarked for medical rehabilitation. 90% of these withhold taxes are transferred to the enterprise's rehabilitation fund named ZFRON, and the remaining 10% to PFRON. The sheltered work establishments are also exempted from paying

contributions to the FGŚP (Fundusz Gwarantowanych Świadczeń Pracowniczych - Employee Security Benefits Guarantee Fund) or FP (Fundusz Pracy - the Labour Fund).

At least 15% of ZFRON means are earmarked for individual rehabilitation programmes and at least 10% is earmarked for individual assistance for disabled employees and former employees. There are sanctions for earmarking these funds for aims other than described above, however, simultaneously there are possibilities to spend them on paying off liabilities in order to sustain workplaces at risk of liquidation in case of cash flow problems – this opportunity can be used once in 5 years and the limit for using ZFRON funds is set at 70%.

The costs of establishing and functioning of sheltered work establishments are financed by PFRON, local authorities and other sources. However, the funds provided by PFRON is to be decreased and will amount to:

2005 - 85% of total costs,

2006 - 75% of total costs,

2007 and later on - 65% of total costs.

Table 4 - Support programmes for enterprises employing disabled.

The number of disabled employees	Percentage of disabled employed	Support connected with The number of disabled employees	Support connected with Percentage of disabled employed	Support not connected with any requirements
Less than 25	No requirements	Covering part of disabled employees remunerations, reimbursement of social insurance contributions		Remuneration of costs of adjusting the workplace to the needs of the disabled as well as training for the unemployed and employing disabled employee's assistance
At least 25	Up to 6 %	Exemption from PFRON contribution		
At least 25	Over 6 %	Exemption from PFRON contribution		
At least 25	Over 10 % of disabled of I and II category	Covering part of the labour costs of the disable employees, reductions in PFRON contributions for the enterprise's clients		
At least 25	Sheltered work establishments: over 40 % of disabled and over 10 % of disabled of I and II category	Higher than in case of other employers coverage of the labour costs of the disable employees, reductions in PFRON contributions for the enterprise's clients, loans for protection of workplaces with a possibility to canceling 50 % of the debt	Tax exemption concerning personal income tax for the disabled exemption from paying contributions to the Employee Security Benefits Guarantee Fund or the Labour Fund, local tax exemptions, fees concerning civil law activities exemption, financial contribution for interest rates of bank credits on condition that the credits' goals concern rehabilitation of the unemployed	

- **Loans for business start up or agricultural farm**

1. **conditions of eligibility, entitlements and coverage, delivery procedures**

A loan can be granted for the disabled below the retirement age and registered in the Labour Office. The application is directed to the *Starosta*, who can approve it and set a contract under which the conditions of granting and paying off the loan, as well as the interest rate are established.

2. **funding structures**

The amount of the loan cannot be higher than 30 times the average monthly wage. The *Staroste* can amortise the loan up to 50%, providing that the economic or agricultural activity has been conducted for at least 24 months. In some cases, if the debtor finds himself in particularly difficult material circumstances, there is also a possibility to delay the term of repayment, pay it in instalments or even cancel a loan.

- **Training for disable employee**

1. **conditions of eligibility, entitlements and coverage, delivery procedures**

The employee can participate in the training organised by the employer, which is co-financed by PFRON. The funds for the training of the disabled are provided on condition that after the training the employee is employed for at least 24 months.

2. **funding structures**

PFRON provides up to 75 % of the costs of the training.

- **Training for the disabled unemployed**

1. **conditions of eligibility, entitlements and coverage, delivery procedures**

Powiat Labour Offices organise training aimed at providing or upgrading vocational qualifications as well as at vocational reorientation of the disabled. The goal is to increase their employability and motivation for job search. The target group of the trainings are disabled with low level of qualifications or those who should requalify due to loss of ability to work in their profession. Disabled who received a notice from the employer also can participate in these trainings. Aid shall be also offered to employees in the period of notice. *Powiat* Labour Offices direct the disabled person to the training chosen by him/her providing that the training enhances his/her chances of finding a job. Training takes place in the training centres of the training institution or in the public centres of training and rehabilitation financed by PFRON.

2. **funding structures**

The training lasts up to 36 months, the costs are covered by PFRON.

- **Financial assistance for disabled conducting business activity or agricultural farm**

1. **conditions of eligibility, entitlements and coverage, delivery procedures**

Disabled conducting business activity or agricultural farm can receive funding for interest payment of bank credit. This form of support is not available to those who had taken a loan for business start up or agricultural farm described above.

2. **funding structures**

The funds are granted up to 50 % of interest payment. The contract concerning this support is agreed between the disabled and *Starosta*.

The costs of establishing and functioning of sheltered work establishments are financed by PFRON, however, the funds provided by PFRON is to be decreased. The costs functioning of sheltered work establishments is concerned, the PFRON contribution will amount to:

- a) 2007 r. - 95% of the total costs,
- b) 2008 r. - 90% of the total costs,
- c) 2009 r. and later on - 85% of the total costs,

The costs establishing of sheltered work establishments is concerned, the PFRON contribution will amount to:

- a) 2007 r. - 85% of the total costs,
- b) 2008 r. - 75% of the total costs,
- c) 2009 r. and later on - 65% of the total costs.

D. The position of people with disabilities in employment/society

Legal solutions aimed at elimination of employment discrimination

On 1 January 2004 **Labour Code** was amended. Changes in regulations concerned, among others, discrimination ban and the principle of equality in employment. According to new regulations any form of discrimination in employment is inadmissible: direct or indirect, especially one on the grounds of sex, age, **disability**, race, religion, nationality, political convictions, union membership, ethnical background, faith, sexual orientation, as well as the form of employment – for definite or indefinite period of time or full-time or partial-time employment (Article 11³ LC /*Labour Code*/).

According to Article 18^{3a} § 1 LC employees shall be accorded equal treatment as far as the entering into and terminating of an employment relation, terms of employment, promotion and access to training for the improvement of vocational qualifications are concerned, specifically irrespectively of their sex, age, **disability**, race, religion, nationality, political convictions, union membership, ethnical background, faith, sexual orientation, as well as the form of employment – fixed term or unfixed term or full-time or partial-time employment.

Provisions of LC define both direct and indirect discrimination. Direct discrimination occurs, when an employee for one or several reasons specified in Article 18^{3a} § 1, was, is, or could be treated less favourably than other employees in a comparable situation. Indirect discrimination occurs when – in effect of seemingly neutral statement, applied criterion or initiated activity – there emerges a disproportion in employment to the detriment or all or considerable number of employees belonging to a group specified on the grounds of one, or several factors defined in Article 18^{3a} § 1 and the disproportion cannot be justified by other, objective reasons.

It is deemed a breach of principle of equality in employment when an employer differentiates the position of employees on grounds of one, or several reasons defined in Article 18^{3a} § 1, which results, specifically, in:

- refusal to enter into or to continue employment relation,
- unfavourable terms of remuneration for work or other terms of employment or overlooking an employee in promotion or granting other work-related benefits,
- overlooking an employee in the selection of participants in training for the improvement of vocational qualifications, unless the employer proves that he/she was guided by objective reasons.

According to Article 18 § 3 LC provisions of employment contracts and other instruments establishing employment relation which breach the principle of equality in employment are invalid. The appropriate provisions of labour law shall apply instead, and if there are no such provisions, they shall be replaced by the appropriate non-discriminatory provisions.

An employee injured by discriminatory practices of an employer may pursue his/her claims under employment relation before the court, and prior to pursuing the matter before the court he/she may request that conciliatory proceedings be held before a conciliation commission.

An employee with whom an employer terminated employment contract breaching non-discrimination employment provisions may pursue his/her claims on the grounds of unjustified or non-legal termination before the labour court. Claiming reinstatement or

compensation one may indicate improper behaviour of an employer, consisting in breach of non-discrimination in employment principle.

An employer is obliged to prove that he/she did not apply discrimination practices against an employee, including those on the grounds of sex. An employer may be cleared from accusation of applying discrimination practices if he/she proves that he/she was guided by objective reasons.

Disputes relating to claims under an employment relation shall be resolved by:

- labour courts, i.e. separate organisational units at the regional courts, and
- labour and social security court, i.e. separate organisational units at the district courts.

Act on promotion of employment and labour market institutions provides the following non-discrimination regulations:

- employment agency shall be based on equality principle. This means poviats labour offices and private employment agencies are obliged to provide support to all persons seeking employment, irrespectively of their sex, age, disability, race, ethnical background, nationality, sexual orientation, political convictions, religious beliefs and trade union membership,
- information on job vacancy or vocational training vacancy announced by an employer must not contain any requirements discriminating potential candidates against sex, age, disability, race, ethnical background, nationality, sexual orientation, political convictions, religious beliefs and trade union membership (obligation introduced by the Act of 22 June 2001 on amendment of Law on employment and prevention of unemployment and Law on social assistance),
- selecting candidates for training one cannot apply any requirements discriminating candidates against their sex, age, disability, race, ethnical background, nationality, sexual orientation, political convictions, religious beliefs and trade union membership ,
- vocational consultancy is based on the principle of equality in access to vocational consultancy, irrespectively of nationality, sex, religious belief, membership in political and social organizations, and other circumstances.

Who, based on sex, age, disability, race, ethnical background, nationality, sexual orientation, political convictions, religious beliefs or trade union membership, refuses to employ a candidate for an available position or vocational training shall be subject to a fine in the amount of not less than PLN 3,000.

Obligations of an employer resulting from employment of an disabled person

According to the Law on vocational and social rehabilitation and employment of the disabled an adapted disabled person work-site means a work-site, equipped with devices and modified in line with individual needs of (of the disabled), being an effect of the type and degree of his/her disability.

According to the Law employer offering sheltered employment is obliged to provide disabled employees with emergency and specialist medical care and rehabilitation services and to establish a company rehabilitation fund (in case of sheltered work establishments) and company activity fund (in case of vocational activity establishments). This solution may be assessed as beneficial for the disabled, since it allows those who are employed by an employer whose personnel consists in majority of persons with severe or moderate degree of disability an easier access to medical care and rehabilitation services. A person with a diagnosed severe or moderate degree of disability may still, however, be employed by an employer who does not meet requirements of sheltered labour employer, provided State Labour Inspection (*PIP - Państwowa Inspekcja Pracy*) issues a positive opinion on adaptation of the work-site to the needs of a disabled person. In that case, the disabled may be employed in the open labour market:

- in accordance with the competition principle – a disabled person is hired and works according to the same principles and on the same terms as a fully able person, having the same scope of duties, responsibility and rights,

- on work positions specifically selected and adapted to psycho-physical needs and capacity of a disabled employee and work-sites equipped with relevant vocational rehabilitation equipment (technical assistance), i.e.: tools, devices and elements of the work-site – depending on a type and degree of disability.

An employer is obliged to supply or organize an adequate work-site and basic social environment to an employed person who following work-related accident or vocational illness lost his/her ability to work on current position, not later than three months from the date the person announces his/her readiness to start work.

Working hours of a disabled cannot exceed 8 per day and 40 hours per week. Working hours of a person with a certified severe or moderate degree of disability cannot exceed 7 per day and 35 hours per week. Moreover, the latter are entitled to additional holidays in the amount of 10 days per calendar year.

Working time norms for the disabled employed in personnel and property protection as well as those who – in effect their individual application – were cleared by a physician can be extended. In the latter case, however, it has been specified that the employer incur the cost of medical assessment. Each application for extension of working hours is individually assessed by a physician and, as a matter of routine, such permit is issued for a limited period of time, on expiry of which consecutive medical assessment is performed.

The role of NGOs in supplying services to the disabled

The importance of non-governmental organisations, especially associations and foundations, in performance of tasks for the sake of the disabled has been growing. Not being focused on generating profits, NGOs fill the gap in supply of services, which are not delivered (or are insufficiently delivered) by public or private sector. This specifically relates to activities in the area of health protection and rehabilitation, social welfare and education.

NGOs operating in the environment of the disabled predominantly focus their activities on assistance to groups (of the disabled) specified in accordance with type of illness or dysfunction (e.g. the blind, deaf, mentally retarded, persons with dysfunction of mobility, etc.).

Nevertheless, portfolio of services delivered by NGOs, especially in the disabled labour market, has been continually expanded. NGOs take over establishment of licensed employment agencies and vocational consultancy centres for the disabled.

In September 2004, Foundation for Aid to Mathematicians and IT Specialists with Mobility Impairment opened in Warsaw the Career Bureau and Employment Agency for the Disabled. The Bureau, within the scope of the project co-financed by PHARE, has delivered a wide variety of services, including:

- running consultancy points: vocational consultancy point, social environment consultancy point and psychological consultancy point,
- carrying out a vocational activation and social communication program,
- developing and maintaining contacts with employers; running a database of employers
- acquisition of job offers and agency in the open labour market,
- monitoring of employment,
- running an Internet Jobcentre,
- initiation of employment, trainee work and internships in companies, NGOs, self-government units and in the office of the Foundation,

On expiry of PHARE financing the Career Bureau and Employment Agency for the Disabled activities are financed by other sources (“Partner” program, ESF funds) and are being continued. Benefiting from the experienced gained during implementation of the project, authors of the Career Bureau developed a procedure of assistance to the unemployed disabled, which has been made available to all interested parties over Internet.

Also projects selected for implementation and to be financed by ESF within Action 1.4. „Professional and social integration of the disabled”, specified within SOP Human Resources Development are aimed at prevention of discrimination against the disabled in the labour market.

The projects cover:

- workshops for the “human environment” of the disabled:
 - for their co-workers,
 - for their employers, improving communication skills leading to improved understanding of the needs of the disabled employees,
 - for those who organize work in companies and employers hiring, or planning to hire disabled persons, aimed at gaining or increasing skills in the area of organization of work-site, as well as knowledge of work conditions and work environment of disabled employees.
- development and promotion of services delivered by NGOs and other service suppliers aimed at integration of the disabled in the open labour market, including services in the area of organization of work-sites and work environment for the disabled.

Some examples of projects selected for implementation:

1. „NGO-fit. The disabled – fully able employees of NGOs” – project of „KLON/JAWOR” Association in Warsaw.

The goal of the project is the promotion of employment of the disabled in the NGOs and focusing attention on organisations as employers in the local labour markets. Organisations shall become an important element supporting adaptation of the disabled to the labour market and modifying in positive way social attitudes towards employment of such persons. An information campaign aimed at increase of positive attitudes of employers towards employment of the disabled is carried out. This should result in modification of a (negative) cliché of the disabled as less valuable employees and facilitate their access to the labour market.

2. „Centre of information and promotion of employment of the blind and sight-impaired” – project of PZN (Polski Związek Niewidomych – Polish Association of the Blind).

The project focuses on activities aimed at vocational activation of the blind and sight-impaired. One of its elements is organization of information and sight-disabled employment promotion centre at Supreme Management Board of PZN. The tasks of the centre consist in delivery of information on availability of employment for persons with sight dysfunction, as well as on legal-economic instruments supporting such employment, consultancy and advice in the area of, among others, adaptation of work-site, development of an web database of available equipment and software. The project also includes a media campaign focusing on presentation of vocational capacity of the blind and sight-impaired and, subsequently, positive modification of the attitudes of employers.

3. „Employer, don’t fear the disabled” - project of European Education Foundation in Wałbrzych.

The project is a comprehensive program of information-promotion activities focusing on positive modification of social attitudes towards the disabled, specifically the attitudes of employers, decision makers and local society. Another goal of the project is giving the disabled assistance within the scope of assessment of their vocational predispositions, capacity and aspirations and definition of conditions enabling work and adaptation in a

specific work environment. The project also aims at facilitating contacts of the disabled with their potential employers and informing on work conditions and vocational requirements of employers.

4. "Better future – Consultancy centre for support of employment of the disabled" - Akademia Przedsiębiorczości Sp. z o.o. /*Entrepreneurship Academy*/ in Starachowice.

The project is aimed at increasing the level of vocational qualifications and potential of employment of persons with severe and moderate degree of disability and consists of establishment of a consultancy centre in which comprehensive consultancy support for the disabled and workshops for persons working with the disabled shall be carried out.

5. "Fit in work" social campaign – Association of the Friends of Integration.

The campaign, which started in the Polish TV and several press titles on 5 May 2005, focuses on stimulating the employers to hire disabled employees and the very disabled to pursue an active way of life and struggle for the right to vocational fulfilment.

6. Preparing persons with sight dysfunction to accession to open labour market – Towarzystwo Opieki nad Ociemniałymi w Laskach /*Care for the Blind Association in Laski*/

The project focuses on activities aimed at assistance at development of educational (school level) and vocational career of the blind and persons with poor vision and is being accomplished by competent professional, psychological, social and legal consultancy, labour agency, rehabilitation of the newly-disabled blind and research into social-professional situation and labour market. Conferences, seminars and meetings with families accompanied by presentation of potential, skills and techniques of work of the blind increase activity of their environment in performance of vocational activation tasks. Workshops on job seeking, as well as psychological and creative ones, increase vocational activity and the need of individual potential development (of these persons). Parents of students of final grades of Gymnasium for the Blind participated in vocational consultancy meetings where they were offered complete information on further education options and recommendations on vocational future and capacity of their children. During classes (teachers) discuss the rudiments of entrepreneurship, interpersonal communication, reading and writing job announcements, CVs, letters of intent, job interviews, and employment as such. A student graduating from the school keeps his/her own documents-exercises, which he/she may use later on. Potential employers are contacted and invited to the centre, where they can learn how to cope with problems related to employment of persons with sight impairment. Employers are also informed on obligations and rights of disabled employees. Also, individual vocational qualifications workshops, internships and on-site trainings are organized.

7. A network of assistants – translators of sign language – Polish Association of the Deaf Mazowiecki Division in Warsaw.

The project focuses on delivery of aid of assistants of the deaf. This role is performed by qualified translators of sign language. Assistants stimulate activity of the deaf, give support, explain transformations of the labour market, teach presentation techniques, actively search for job offers from Poviát Labour Offices, accompany deaf persons during job interviews and medical vocational assessment, etc. In companies assistants perform activities focusing on adaptation of the deaf person to the specific environment of the work-site.

8. Development of civil society through preparing intellectually impaired persons to work in vocational activity establishments – Polish Association for Mentally Retarded Persons, Circle in Szczecin.

The goal of this action is preparation to work of persons with certified moderate and severe (intellectual) disability in Szczecin and its vicinity and development of the model of efficient support of employment of persons with intellectual impairment.

The third sector appears to be an employer open to the disabled. It offers more flexible forms of work and focuses on vocational potential, rather than deficits of this group of employees. NGOs promote self-employment of the disabled by accomplishment of micro-entrepreneurship projects.

Good practices mentioned above prove that NGOs offering assistance on the labour market deliver services and assistance in a form tailored better than that of public sector – also to groups of beneficiaries characterized by special needs, like the disabled.