

Work in rehabilitation of persons with disabilities in Poland: formal and legal conditions and reality pragmatics

In the article the materials of the Act on vocational and social rehabilitation and employment of persons with disabilities are presented by the author. An attention is paid to the definition of persons with disabilities and three degrees of disability (minor, moderate or severe). The author describes the situation of persons with disabilities in Poland, the centers for the disabled that were isolated from institutional and social life. New approach to the “work” in the context of rehabilitation to the persons with disabilities is presented in the article. Work is an important form of social rehabilitation as it introduces the disabled to the environment of healthy persons, integrates and socializes them with the society. A model of the social-vocational rehabilitation is analyzed in the given article.

Key words: vocational and social rehabilitation, persons with disabilities, centers for the disabled, social life, sheltered workshops, model of the social-vocational rehabilitation, therapy workshops, practical skills.

The Act on vocational and social rehabilitation and employment of persons with disabilities (1997) governing in Poland defines persons with disabilities as the ones whose physical, psychical or mental condition permanently or temporarily hinders, limits or prevents fulfilling social roles, in particular the ability to perform **vocational activities**. Status of a person with disabilities is granted on the basis of medical assessment that defines one of the three degrees of disability (minor, moderate or severe).

The term work (labour), crucial in vocational rehabilitation of the disabled should be defined widely; work is an intentional activity that involves human influence (through mental and physical activities) that results in achieving the determined goal. Work (labour) is the effort that has been put in order to produce a certain good. To be more precise, “work” in the context of rehabilitation involves three main attitudes:

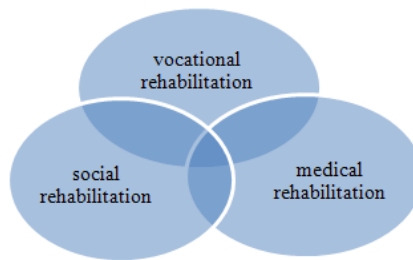
- work as compulsion, the effect of life or economic necessity (punitive attitude);
- work as the element of fulfilling various needs (instrumental attitude);
- work treated as a value and goal in itself, the source of personal development, the space for self-realization (autotelic attitude) (Jacher, 1979, 18).

When considering motivations and prerequisites which prompt people with disabilities to undertake work, we can notice that the autotelic aspects of vocational activity become much more important than economic, social and integration reasons. It is, thus, the most pure, unselfish form of viewing work as a value, a goal in itself, a source of personal development (Wąsiński, 2009). Work in this approach serves the significant, important values, is connected with the sphere of self-realization in the professional work and of better functioning in the social sphere.

Persons with disabilities present various and differently conditioned attitudes towards the possibility to undertake professional activity (Brzezińska, 2007). It refers particularly to people with learning disabilities who are commonly perceived as unable to function independently (which includes professional work). Yet, work is also an important form of social rehabilitation as it introduces the disabled to the environment of healthy persons, integrates and socializes them with the society. Work provides with the sense of fulfillment and self-realization, allows persons with disabilities to believe that since they can work they are “fully valuable” members of their communities. Vocational activity enforces time organization, reliability in fulfilling one’s duties, provides the rhythm for activities of daily living (ADL) conforming them to repetitive rituals. Activities repeatability is of a significant rehabilitation and educational value.

Introducing persons with disabilities to the labour market is not an easy nor short-term challenge, however, in the long-term perspective the benefits may be counted both, in the economic and social aspect. On the other hand, the process of social integration causes healthy persons who have no knowledge or experience within the disability area to see people with disabilities as the ones who are able to make effort and care for their own good, within certain frames. Such attitude fits into the “integrating thinking” trend.

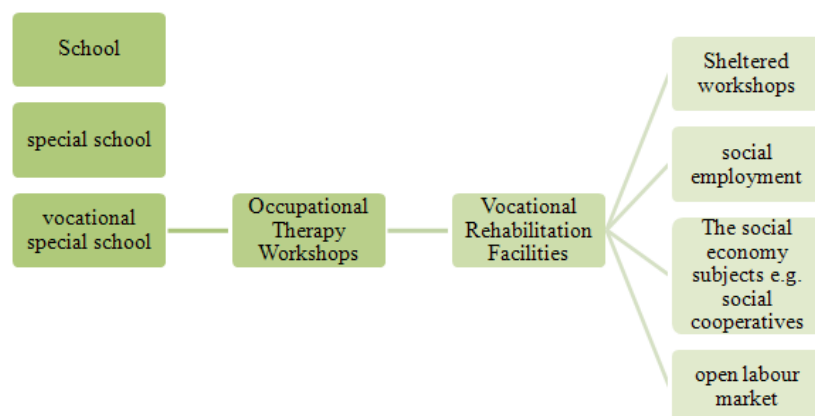
Vocational rehabilitation – as presented in the graph below – is one of the three key forms of supporting persons with disabilities. It has the autotelic dimension but, as presented, it never occurs on its own, it is always accompanied by social and medical rehabilitation, those forms must complement each other.



In Poland there is a system of institutions and legal solutions that enable vocational activation of persons with disabilities – one of them is employment in sheltered workshops. This system is constituted mainly by the Act on social assistance (2004), the Act on vocational and social rehabilitation and employment of persons with disabilities (1997) and the Act on social employment (2003). The scope, time and place of the work must be adopted to the capabilities of people with disability certificates. The main institutionalized forms of labour organization (Majewski, 1995) include: Sheltered workshops which are one of the three pillars, together with Vocational Rehabilitation Facilities (VRF, Zakłady Aktywności Zawodowej) and Occupational Therapy Workshops (OTW, Warsztaty Terapii Zajęciowej), on which the system of support and assistance for persons with disabilities is based on. Sheltered workshops ensure conditions where the disabled not only can perform the tasks required by the work itself but also are given the proper medical and rehabilitation care. Vocational Rehabilitation Facilities are organizationally and financially separated units formed by poviats, municipalities, associations or other social organizations. They enable the employment of the disabled with severe levels of disabilities in order to prepare them for active life in the open environment according to their individual capabilities. The third pillar – Occupational Therapy Workshops are the units that give the opportunity for social and vocational rehabilitation to the disabled persons who are unable to undertake professional activity. They are the places where such persons may acquire or restore skills necessary to become employed.

The situation of persons with disabilities in Poland. The half-century prior to the political breakthrough in 1989 was an unfavorable time for people with disabilities who then functioned outside the official social life and often were treated as an embarrassing problem. The centers for the disabled were isolated from institutional and social life, what strengthened antipathy and fear from “other” among the healthy part of the society. People with disabilities did not have many opportunities to participate in social life, even within their families, birth of a disabled child were often a taboo subject. Such attitude fostered marginalization of the disabled persons. The situation changed along with the political transformations and creating the system of rehabilitation of people with disabilities; the latter set the foundations for thinking about exiting the life margins by the disabled.

According to the social-vocational rehabilitation model adopted in Poland (see graph), after graduation from primary school, gymnasium or vocational school youth may undertake rehabilitation in occupational therapy workshops. After completing school education, a person should undergo 3 year period of acquiring practical skills in an OTW. Then, the disabled person should find employment in a sheltered workshop, what would finally allow them to enter sheltered or open labor market or find work in social economy. Finally, there is also a possibility of subsidized rehabilitation treatments (camps).



It needs to be pointed that Poland entered the process of vocational rehabilitation of persons with learning disabilities little unprepared and right off – after the system transformation of 1989. Since the

beginning of the 90's programs preparing the disabled to enter the labor market has been introduced. However, due to the negligence of vocational rehabilitation during the times of real socialism, the disabled themselves as well as their families and employers were unprepared for that moment. Favorable attitude of the environment is as important as motivation and involvement of a disabled person and right infrastructure. The place and character of work adopted to person's capacities as well as receiving support from family and employer are the important factors. The visible changes in viewing work as a real value and benefits it entails can be observed during the last 5 years. Since that moment we can talk about the growth tendency in the employment of persons with disabilities.

The legal context of employing persons with disabilities in Poland. Vocational rehabilitation is to help the disabled to take up and keep proper employment and, in further perspective, to experience professional development. It involves the access to vocational counseling, professional trainings and employment agencies (Majewski, 1995). In modern context the awareness of the rights and opportunities granted to persons with disabilities and of the legal regulations is important. The provisions of the Act on rehabilitation impose, on one hand, the certain duties on employers, resulting from hiring the disabled persons and on the other hand they offer a range of incentives and benefits that are to support and promote employment of people with disabilities.

According to the law, if an employer does not hire the disabled, he is obliged to pay the penalty fee (premium) to the State Fund for Rehabilitation of Disabled People (Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych, PFRON), according to the algorithm including the average remuneration, the number of employees and employment rate of disabled people amounting to 6%². The funds collected this way (PFRON fund) are designated to finance and promote employment of the disabled, eliminate barriers and other forms of medical, social and vocational rehabilitation.

Special privileges for the disabled people in the area of vocational rehabilitation and employment are included in the above cited Act on rehabilitation, the provisions regulating the rights and obligations of the disabled employees are also covered by the Labor Code. An important, in the axiological aspect, is article 11 stating that "discrimination for every reason is forbidden" – that includes disability. This principle has been repeated in the article 18, in section stating about: "Equal treatment in employment" where the statement is included that "employees shall receive equal treatment with regard to such issues as establishment and termination of employment relationship, terms and conditions of employment, promotion and access to vocational training in order to improve one's occupational qualifications...".

According to the Labor Code provisions, working time for person with disabilities is shortened adequately to their disability level and health condition, such persons are entitled to additional breaks, additional holiday leave and possibility to participate in rehabilitation treatment – another form of socio-vocational rehabilitation.

Under the governing law, taking up employment by a disabled person may entail the necessity to reduce or suspend retirement or pension (including social or family pension) (the Act on retirement pensions and other pensions; the Act on the social pension), which until the amendment of regulations was an important factor that discouraged the disabled persons to enter the labour market. That situation generated pathology where people with disabilities who were capable of taking up simple jobs, did not do it as they preferred to function within the social minimum level rather than fear that they might have lost their financial stability and liquidity. Nowadays, taking up employment does not mean withdrawal or loss of the due benefits; after the employment period expires one can return to being on pension. It is not necessary to obtain again a declaration of work incapability. The basis for renewal of pension reimbursement is submitting an application to the Social Insurance Fund. Decrease or suspension of pensions depends on person's income. A person with disabilities does not lose their right to pension if their remuneration does not exceed 70% of the average salary. In 2012 the average remuneration amounted to 3496, 82 PLN, that is approx. 833 Euro. When income of a disabled person are higher than 70% of the average remuneration, their due pension is decreased by the amount exceeding the average; the suspension of allowances takes place when the income of the disabled person are over 130% of the average remuneration.

According to the governing law remuneration of the disabled people should not differ from remuneration of other employees performing the same work, employed in the equivalent job positions (the principle of non-discrimination stipulated in the Labour Code). In practice, it happens that external regulating factors and non-formal agreements take place. Both, employers and employees take into consideration the remuneration limits and legal regulations regarding other benefits, often on the basis of

² Information has been provided in general, the Act lists the numerous conditions, allowances and detailed regulations.

informal agreement the amount of salary is “set” so that it does not affect receiving pensions. Despite the fact that such practices cannot be approved, it is (in practice) beneficial both for employers (as they usually pay less to a worker – he disposes “cheaper” work force) and disabled employees (as their pensions are not reduced or suspended and, in result, they receive higher income consisting of pension, or part of it, and salary). One needs to remember that such informal arrangements between the disabled and their employers function on the borderline of being legal, and in wider perspective “spoil the market”, thus, in fact, limiting the competitiveness of persons with disabilities in the labour market.

It is also worth remembering that the decisions about taking up (or not) employment are influenced by parents (carers) of the disabled persons. For example, when a family has low incomes, a disabled member as pension beneficiary contributes significantly to the family budget, thus becomes – to put it bluntly – “the source of income” – limited but stable (regular) one.

Towards practice - employment of persons with disabilities in Poland. Depending on the criterion, the population of the disabled people in Poland may amount from 4,7 mln (the National Census of Population and Housing, 2011) to 9 mln. (the Central Statistical Office, 2011). According to the Eurostat methodology which omits the legal certificate aspect and underlines the matters of health problems that hinder or prevent from performing the typical work activities (severe or less severe limitations), more than 20% of Poles belong to the disabled category: the level of biological disability in Poland at the end of 2009 amounted to almost 25%, what is similar to the EU average (26%). For comparison, at the end of 2009 the legal disability certificates (on mild, moderate or severe disability) were held by 4,2 mln of Poles, which is about 11% of the whole population.

The most frequent cause of disability are diseases of the circulatory system, musculoskeletal system and neurological diseases. The lower share of disabilities related to impaired hearing and eyesight, mental illness and mental retardation has been noted. However these conditions refer to the thousands of people with impaired mobility, thus requiring a special approach in education, labour market and in everyday life.

Published quarterly data of the Labour Force Survey in Poland (Badanie Aktywności Ekonomicznej Ludności, BAEL), what has been frequently raised in the context of discussion on the “presence” of the disabled in society, and data regarding the progress of vocational rehabilitation of the disabled people do not prompt to optimism (Czapliński, 2010). In 2010 the vocational activity rate for people with legally certified disability was barely 25,5%, the employment rate was 21,9% and the unemployment rate was 15,3%. In 2011 the activity rate grew for less than 1% amounting to 26,4% while employment dropped to 21,4% and the unemployment rate increased to 15,5%. In 2012 the data remained on similar level: activity rate 27,5%, employment rate 23%, unemployment rate 16,3% (the Labour Force Survey reports by the Central Statistical Office 1993-2012). In case of persons with disabilities the growth of the unemployment level with the stable growth of the employment coefficient may, paradoxally, prove the increase in their activity as it may mean professional activation of those people who has previously been passive in this regard.

However, to be more precise, it is one of the lowest results in the European Union (Eurostat) where about 20% of the working population are the people with certified disability (WFOT, 2012). In Poland 3/4 of the population of the disabled in the productive age function outside the labour market, which translates directly into the level of participation in social life and the quality of life.

Low professional activity of people with disabilities in the statistical age group of 15 and more is reflected in the structure of this population in regard to the source of income. In recent years the main and most frequent source of living among the disabled in the productive age was work incapability pension (within 60%), retirement pension (5-7%). The remaining groups mostly live from the unemployment benefits, pre-retirement pension and other social benefits. 14-16% lives from their own work, the majority from hired work, the percentage works in their own farms or have their own businesses.

Summarizing, the vast majority of the disabled people, including those in the productive age, still remains (in recent years as well as nowadays) outside the labour market.

As it has been pointed out, despite numerous activities in the field of vocational rehabilitation, at present stage of preparing people with disabilities to take up employment as well as preparing environments and supporting employers, those efforts do not always bring the desired effect. At present, the employment rate of the disabled in Poland is one of the lowest in Europe. For several years now, the employment level stays at over a dozen percent while in the EU states every other person with disabilities are employed. It is very hard for the disabled to find employment in the open labour market – the most if they work in sheltered workshops. People with disabilities are not (in common belief) considered to be good workers. Employers are afraid to

hire them as they are convinced of their low usefulness, they are also afraid of the higher costs connected (in their opinion) with employing a disabled person (which are not the case when hiring healthy person).

Social economy perspective. People with disabilities who remain outside the labour market, are entitled, like other social groups, to benefit from the unemployment assistance system. Its principles are regulated by the Act of 2004 on promotion of employment and labor market institutions. According to the governing law the disabled persons who receive pensions and other benefits cannot become the unemployed (in formal and legal sense they cannot obtain the status of the unemployed, which entails the right to other allowances), yet they can be registered in poviats employment agencies as *seeking employment*. The registered disabled people are among the 7 groups defined by the act. They have – according to the law – the status of *being in special situation in the labor market* and, among others, due to that they are entitled to receive institutionalized assistance.

It is worth to point out to the specific role of – apart from the open and sheltered labor market – functioning of social economy and its subjects. Due to the diagnosed and commonly known difficulties in finding and keeping employment in this particular area, one can expect other, organized forms of subsidies and support for the devalorized environments. It is easier (at least theoretically) for the disabled people to find a job thanks to the developing in Poland network of subjects (institutions) of social economy and, first of all, social co-operatives. This activities and forms of employment are regulated by the Act of 2003 on social employment and the Act of 2006 on social cooperative societies, both of which directly fit into the active integration concept (Brzezińska, Woźniak, Maj, 2007). The social economy subjects are, e.g. social cooperatives which by definition combine the features of non-governmental organization and enterprises. Belonging to a cooperative is to enable its members (minimum 50% of members must consist of persons threatened with social exclusion) to return to social life and activity in the labour market. The idea of cooperatives is based on the principle of personal work service provided by its members. A social cooperative may be founded by people capable [to perform acts in law](#) and at the same time belonging to at least one of the following categories: unemployed, disabled, alcohol or drug addicts, mentally ill, homeless undergoing individual program of exiting homelessness, persons released from prisons etc. Social Integration Centers and Social Cooperatives - according to the capabilities granted by the legal authorities - allow for strengthening the idea of employment (self-employment) of marginalized people, including the disabled and their professional activation. One need to underline that there are hardly any institutions providing support for people whose chances in the “open” or “commercial” market are less than likely. At present, also NGO’s that understand social problems well create conditions suitable for employing person with disabilities. When the activities of the NGO’s ceases to be seen in the categories of social, voluntary work that does not require expenses on staff or administration, those organizations will become important employers, especially for the groups rejected by the labour market, thus also for the disabled people.

However, one need to point out that the outlined perspective is still the challenge of tomorrow when it comes to employment of people with disabilities on the wide scale. Despite numerous examples of good practices and wide promotion of social economy, its network is still in the development phase.

Conclusions. The relatively low rate of employment of the disabled in our country results from the bigger than average difficulties in finding a job and lesser willingness or possibility to enter the labor market. The cited results of the Labor Force Survey in Poland (BAEL) may serve as an indicator in the reflection upon the realization of the idea of vocational rehabilitation of the disabled. Due to the adopted methodology the abovementioned survey points out to the issue of real degree of participation of those people in social life, as the result, that is professional activity within that group (active job seeking, taking up apprentices, practices, working in various institutions or social economy units etc.) consists of functioning of many elements of the health care, support and social assistance system and also: education, information, social and vocational rehabilitation, support of employment etc. (see: Waśniski, 2009). Technical and IT infrastructure is also important. Economic activity of people with disabilities is also influenced by such environmental matters as acceptance, cooperation, non-institutional help and support, mutual knowledge of each other, unanimous coexistence, what embraces the vast category of the level of social integration and openness of so called “fully-abled” part of the society (including employers and officials) to the needs of the disabled. The statistical data, thus, describe not only the interest as a readiness to take up employment by the disabled people but also the numerous environmental and cultural factors, including stereotypes. The conclusions from the data and observations are that, in spite that we are on the right path, despite over twenty years of functioning and development of the support and assistance system, the real results shall be expected in more distant perspective. The perspective that involves also the supportive activities and a

change of models and social opinions in regard to the employment of people with disabilities (Chłoń-Domińczak, Poznańska, 2007).

Legal acts:

- The Labour Code (Journal of Laws 1988, No 21, Item 94);
- The Act of 17 December 1998 on retirement pensions and other pensions from the Social Insurance Fund, Journal of Laws 2004, No 39, Item 353;
- The Act of 2004 on promotion of employment and labour market institutions;
- The Act of 27 August 1997 on vocational and social rehabilitation and employment of persons with disabilities, Journal of Laws, No 123, Item 776;
- The Act of 27 June 2003 on social pensions, Journal of Laws 2003, No 135, Item 1268;
- The Act of 27 April 2006 on social cooperative societies, Journal of Laws, No 94, Item 651.

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У статті представлені матеріали Акту з професійної та соціальної реабілітації та працевлаштування осіб з обмеженими можливостями. Представлено визначення осіб з обмеженими можливостями та три ступені осіб з обмеженими можливостями. Автор описує ситуацію (положення) та центри для осіб з обмеженими можливостями у Польщі, які ізольовані від інституційного та соціального життя. У статті представлено новий підхід до працевлаштування осіб з обмеженими можливостями. Праця є важливою формою реабілітації осіб з обмеженими можливостями, оскільки вона вводить неповносправних в оточення здорових людей, інтегрує й соціалізує їх з суспільством. Модель соціально-професійної реабілітації описано у статті.

Ключові слова: професійна й соціальна реабілітація, люди з обмеженими можливостями, центри для неповносправних, соціальне життя, криті майстерні, модель соціально-професійної реабілітації, терапевтичні майстерні, практичні уміння.