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# Guidelines on Active Training and Employment Policies for Disabled People in Central and Eastern Europe

**Keywords**

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# Employment prospects for disabled people in transition countries

Guidelines on active training and employment policies for disabled people in  
Central and Eastern Europe  
International Labour Office

Geneva

## **FOREWORD**

This document was initiated by the ILO Central and Eastern Europe Mutidisciplinary Advisory Team in Budapest and its then Director, Mr. G. Standing, as one of a series of publications dealing with social and labour issues in the Central and Eastern European region. The work started with research on the labour market situation of disabled workers in selected countries of the region and with a review of policies and approaches, during an informal experts' meeting in Budapest in 1993. A first draft was produced in 1994, translated into several languages and distributed to governments in the region. The draft was also discussed at a regional ILO Conference on employment policies for disabled persons in Poznan in March 1994. Taking into account the various comments received, the document was completely overhauled and revised during 1994 and 1995.

The guidelines are the combined work of several authors and editors. Special thanks go to Tom Gawn who contributed substantive parts of the first version, and to Ian Tugwell, who had the arduous task of digging through the diversity of opinions and proposed amendments, as well as to edit the whole for consistency of language and message. Important chapters were contributed by Guy Standing, Alena Nesporova, Michael Cichon, Pekka Aro and Björn Grünewald from the Budapest ILO Team, who brought experience from their work in the region and ensured a multidisciplinary thrust to the publication.

Finally, we wish to express our appreciation to the governments of the United Kingdom and Germany, for funding the activities that led to this publication.

\* \* \*

Guidelines like these which deal with very complex issues and that present various viewpoints and historical insights cannot be an authoritative document. Views expressed and interpretations offered are meant to reflect present knowledge, clarify the leading concepts in current disability policy and stimulate

discussion of desirable developments in this region. Necessarily, some of the views presented are subjective or even controversial.

However, it is the view of the ILO's Vocational Rehabilitation Branch that the issues raised are pertinent and legitimate in the light of the international labour standards concerning training and employment policies for disabled persons. Any countries that follow the advice presented can be certain that their policies comply with those international standards.

While we take responsibility for the contents of this publication, including the subjective views expressed, we would like to invite constructive criticism. We are particularly keen to know of any social, cultural and economic constraints affecting the applicability of the guidelines. We wish to encourage an enlightened debate, not to impose ready-made concepts.

Geneva, June 1995 Willi Momm

Chief,

Vocational Rehabilitation Branch

## **INTRODUCTION**

The changing social and economic conditions in Central and Eastern Europe have had a profound impact on the place of disabled people in society. The former economic and political regimes of the region afforded disabled people, particularly those who became disabled at work, financial security and protection. As state-led funding of comprehensive social welfare programmes fades from political agendas, enforceable alternative strategies must emerge if people with disabilities are not to become the victims of the countries' transition to a market economy.

The financial security and protection provided under the former systems has been widely criticized inside and outside the region. It often failed to value or utilize the contribution most people with disabilities can make, and wish to make, to their own and their families' well-being through gainful employment. Disability was regarded as a status; to be followed by categorization, which in turn afforded a set range of benefits. Categorization was based on a medical assessment of restricted ability, and set for life without the expectation of improvement or the need for review. This practice led to a conception that disabled people fall neatly into predetermined groups and that they should be directed towards undemanding tasks. These would often be in conditions of sheltered employment with little prospect of ever re-entering mainstream employment or utilizing pre-disability skills or knowledge.

Though unsatisfactory, that system provided security which is now lost. Deprived both of jobs and social security, disabled people experience the transition to a market economy largely as a disaster: a profound social decline which leaves them poor and excluded.

Policy-makers are confronted with new problems, but often react to them with old solutions, thus compounding the problem and prolonging the agony. Confusion reigns and hectic activity alternates with lethargy. Both are damaging to the policy-making process. Both make things worse for disabled people, and undermine transition to the democratic market economy to which all countries in Central and Eastern Europe aspire. Swift action is needed to re-establish confidence in public policy. A broad national dialogue is needed on policies to replace the old system.

Disability policy needs a new foundation. It needs action to redress massive social injustice and to sow the seeds of long-term recovery and stability. That discussion needs direction and information, which is the purpose of these guidelines. They should promote an informed debate and guide those responsible for policy.

These guidelines build on principles stipulated in international instruments such as ILO Convention No. 159 and Recommendations Nos. 99 and 168; put forward in Council of Europe Resolutions; and enshrined in the Poznan Declaration of 1994 (see Annex 1). They also respond to the call of the 1995 World Summit for Social Development and the Copenhagen Programme of Action to combat exclusion, poverty and unemployment. They also describe experiences -- both successful and not successful models -- from other industrialized countries, in particular from Western Europe. Those valuable experiences show that new problems also bring new and often unexpected opportunities for improvement. The final aim of these guidelines is to help policy-makers in the countries of Central and Eastern Europe to find ways to reconcile the requirements of the market economy with the social and cultural traditions of their countries.

## **Chapter 1**

# **Disabled workers in Central and Eastern Europe**

Throughout Central and Eastern Europe the reform strategy followed since 1989 has seen a worsening of poverty and unemployment levels. Socially vulnerable groups, such as people with physical and/or mental disabilities, have suffered disproportionately. Until the old ways of redressing their social and economic disadvantages are replaced by effective new strategies their plight will intensify.

Few reliable statistics on the prevalence of disability for the countries of the region are available. Doubt and debate about the size of a disabled population is

not limited to the countries of Central and Eastern Europe. The collection and publication of reliable data is complicated by the various definitions of disability, cultural attitudes to disability, the purposes for which it is perceived to be collected, the usually high costs involved and the use to which the information is to be put. People with mental disabilities are most likely to be under-represented in any survey. The probability is that the percentage of people with disabilities in any population is likely to be within the range of 4-10 per cent. But as the effects of disability impinge not just on the disabled individual but other family members as well, any 'headcount' survey, no matter how accurate, misrepresents the extent of both the social and economic dimensions of disability. The probability is that the actual number of people with disabilities in the countries of the region will be greater than in most industrialized countries and more than any official statistics suggest.

## Employment trends

On employment trends the picture is bleak. Many workshops employing disabled people have closed, or reduced production, as budget constraints have been imposed. Where new jobs have emerged they have been concentrated in small, informal units employing proportionately fewer disabled workers. Often, managers have reduced their disabled workers because of the increased availability of able-bodied staff, as noted in the Czech Republic and elsewhere.

Open unemployment has risen sharply, and numerous disabled workers who need an income have been pushed into the status of 'disability pensioner' without the income which had previously complemented any state benefits. Although most disabled people pushed out of jobs have not been counted as unemployed, primarily because of the ways unemployment benefits and disability pensions have operated, the estimated numbers of unemployed testify to a growing and serious problem. For example, in the Ukraine there are nearly half a million workers wanting employment. Vacancies for disabled workers are scarce, as in Slovakia, where a general decline in vacancies has been coupled with a shrinking proportion of jobs being reserved for people with disabilities.

Sheltered enterprises are among the worst hit largely because state orders for their products have been cancelled. In Bulgaria mass layoffs from enterprises belonging to unions of disabled workers reduced employment by more than 50 per cent in less than three years. Such evidence of employment decline is more revealing than statistics on registered unemployment, simply because so many displaced from jobs have 'disappeared' from the labour market. In The Russian Federation, according to the Ministry of Social Protection, in 1991-92 total employment of disabled workers declined by about 40 per cent to 650,000. A decline of over 400,000, and yet only a small fraction of that number is included in the official count of unemployed persons. The situation is likely to have deteriorated since then.

## Labour market disadvantages

Often disabled people suffer a combination of labour market disadvantages related to age, education and location.

First, much disability is linked with ageing, and in many countries older workers with impairments are socially and economically marginalized, pushed into premature retirement on meagre pensions. When compounded by the effects of lack of schooling and vocational training, their prospects for work are minimal.

## Skill profiles

Second, disability and poor schooling are often linked experiences. Due to lack of access to formal education and training, or to the inability to maintain acquired skills, the disabled population's educational-skill profiles are generally below those of the average non-disabled jobseeker. In Hungary, for example, in 1992 about 70 per cent of registered disabled people had not completed secondary schooling, which compared unfavourably with the general population. In Ukraine in 1992 nearly 70 per cent of the registered disabled people had less than secondary or basic vocational schooling to offer, compared with 45 per cent of the total population.

The groups hardest hit are the low-skilled and least educated. Disabled people are over-represented in precisely that group. There is also evidence that since the late 1980s, disabled youths have faced increasing discrimination in access to schooling and training. Resources for special forms of training have been reduced more than resources allocated to schooling and training generally.

Third, regions with concentrations of heavy industry have proportionately more workers with disabilities, most acquired from poor or dangerous working conditions. In the 1990s, such regions are experiencing the most acute economic crisis, with the highest levels of unemployment and prospective job losses.

Besides shrinking access to employment, disabled people have suffered even sharper falls in incomes and living standards than most of the population, as in Bulgaria. Many have been pushed into lower-paying jobs, while the real value of social benefits has lagged behind average real wages. Since many people with disabilities have special financial needs to meet, inadequate benefits often prevent them from functioning effectively when searching for jobs.

Thus since 1989 a new circle of deprivation has emerged, prompting fears of social marginalization for those with disabilities. This must be prevented and reversed without returning to the shortcomings of the old system.

## The pre-1989 approach

Recent developments represent a dramatic change in a remarkably short period. Although there were variations in the countries of the region, for the most part disabled workers were extensively integrated into employment in the former command economy system.

Labour codes and other regulatory apparatus placed heavy emphasis on ensuring that all adults, including those with physical or mental disabilities, contributed to 'material production'. Persons were classified as disabled in terms of their degree of 'reduced working capacity', a dubious practice, as will be argued in Chapter 2. Although disabled people tended to occupy lower-paid jobs, and often had little access to training and job mobility, their employment rate was high, and they had good employment security. The high employment reflected the labour-shortage character of the command economy. Additionally, state agencies promoted the employment of disabled people through various directives.

## Commitment to quotas

First, most had some commitment to quota schemes, as in Poland where there was a formal recommendation. In practice that did not create many problems since there was an artificial labour shortage. Yet quotas were widespread, and the simple application of quotas can have drawbacks, as discussed in Chapter 7.

## Sheltered employment

Second, almost all countries promoted the employment of disabled people by designating certain jobs for them. They did so primarily by the creation of sheltered workplaces and cooperatives exclusively for disabled workers. In the Russian Federation and elsewhere societies

of disabled people operated their own productive and social facilities, and continue to do so. In Hungary the number of sheltered enterprises grew steadily between 1968 and the late 1980s, while in Poland the number of special cooperatives grew.

Sheltered employment has advantages and disadvantages, some of which are accentuated in a free-market economy as discussed later. In the context of centralized command economies they functioned adequately, ensuring the extensive employment of people having a range of disabilities.

The employment-promotion policies were part of an integrated system, the main drawback being that disabled workers were often undervalued and placed in work judged suitable for their type of disability. As they had less received schooling or vocational training, in part due to the lack of appropriate facilities, disabled workers were concentrated in a narrow range of semi-skilled manual jobs. Even



the highly educated minority were often obliged to take work beneath their technical capacities, and discrimination operated more at this level than in access to employment itself.

There was a paternalistic attitude towards people with disabilities. Although officially classed as productive workers, their employment was largely a matter of social protection. Managers saw their responsibility as preserving the social employment function in providing them with jobs.

For all its failings, the system at least ensured that many disabled people of employment age had jobs. By contrast, since 1989, in many countries of the region the number of job opportunities for people with disabilities has seriously diminished. The old system has been eroded: gone is the concept of guaranteed 'full' employment together with state regulatory and compensatory mechanisms. In most countries neither the legislative nor administrative apparatus needed for an alternative system has yet been put in place. Employment prospects for disabled people are generally very bleak.

## Evolution of policy perspectives outside the region

In industrialized market economies, perspectives on disability and policies for disabled workers have evolved considerably since the 1940s. They have done so at different times in different countries and at different speeds. They have evolved in similar directions but with several divergent trends.

For much of Europe post-1945 was met with an enthusiasm for the welfare State concept. Vulnerable groups were identified for special treatment, additional forms of social protection and separate identity, legally and administratively. This emphasis was also reflected in the training and employment policies of the period. People with disabilities commanded some priority, partly because significant numbers in every population had suffered injury during the war, and partly because there soon became a widespread demand for labour to repair damaged infrastructure and to meet the growing demand for consumer goods. In the United Kingdom the *Disabled Persons (Employment) Act* of 1944 set up a register of disabled people, an employment quota scheme, reserved occupations, sheltered employment on a national scale, a disablement advisory council and vocational rehabilitation schemes. For several decades these measures met the need and were subject only to minor changes. Similar rehabilitation services for people with disabilities were established in other countries, many prompted and shaped by the adoption of *ILO Recommendation No.99* of 1955.

In the 1980s the emphasis changed, involving convergence and divergence.

## An enhanced role for NGOs

In terms of convergence, governments in several countries have encouraged a greater role for the community and voluntary non-governmental organizations (NGOs), with the intention of promoting community participation and the integration of disabled people into the mainstream of society. NGOs have become important instruments of social policy, sometimes receiving subsidies to provide services previously within the direct remit of government itself, and accepting monitoring and regulation to ensure the achievement of acceptable standards.

The roles of NGOs in shaping and implementing policies are reviewed in Chapter 9. Their increasing institutionalization has both reflected changes in government strategies and influenced those changes. Their emergence reflects the growing difficulties faced by all socially disadvantaged groups in labour markets characterized by chronically higher levels of unemployment and social deprivation than in the 1960s and 1970s.

## Integration in the open labour market

The past decade has seen attempts to bring a majority of those with physical and mental impairments into the mainstream of the labour market. There has, in some countries, been a serious questioning of the value and efficacy of sheltered enterprises for meeting the employment need of people with disabilities. Also there has been a shift from compensatory social protection principles towards the promotion of the right to work.

Most countries have moved in the direction of 'mainstreaming'. It is accepted that disabled people seeking work should regard normal, open forms of employment as a reasonable expectation and personal goal. The degree of success in achieving mainstream employment by large numbers of disabled people depends, to a large extent, on the state of the labour market; as is the case with the non-disabled. With high unemployment and a proliferation of small-scale businesses that may find it more difficult to accommodate disabled workers, the reality may be disappointing, falling far short of legislative or administrative intentions. Yet the goal of mainstream integration for the majority of disabled people is not only an ideal to be pursued, but a realistic perspective provided the disabled jobseeker receives professional vocational guidance, has access to opportunities to acquire skills that the labour market needs and enjoys protected access to jobs. In conditions of a dysfunctional social protection system that provides a sufficient level of income substitution, the best form of social protection is to create conditions that permit disabled people to be productively employed in the open labour market and to earn their living through work.

Not all disabled people will succeed in becoming fully productive or in persuading employers that they are. In particular, the present generation of disabled workers which is more disadvantaged for lack of equal education and training

opportunities may find it difficult to compete on equal terms with other workers. They may need wage subsidies to offset lower productivity, or part-time work coupled with pension payment to achieve appropriate income levels. Others may need support at the workplace or special assistance in finding housing and transport that gives them mobility and access to suitable jobs. But still it is the open labour market that will provide the best form of employment and income provision for disabled workers.

## Divergence of trends

The main divergence can be seen in the approaches of the countries belonging to the European Union (EU) and the non-EU countries. In the EU, legislation for the enforcement of employment quotas in open employment remains in favour. In non-EU countries, notably in Canada and in the United States, policy-makers have favoured anti-discrimination and equal-opportunity legislation designed to confer on people with disabilities the right to participate in economic activity or, if denied, the ability to pursue the matter through the courts. It is likely that the equal rights approach will become more widespread throughout Europe by the turn of the century. There are indications that, for example, the UK and Ireland will opt for anti-discrimination legislation, while continental Europe will add the human rights approach to its existing quota legislation.

Anti-discrimination legislation and labour market policies to improve employment opportunities should therefore, not be seen as mutually exclusive or competing paths.

In short, in the past few decades the policy perspective in Western European countries has evolved from the sole emphasis on employment and income security through vocational rehabilitation, towards the assertion of equal rights and representation. Only when these last are realized, when disabled people have equal status and equal redress in seeking work, holding jobs and pursuing their careers, will the goal of equal rights be achieved. However, much will depend on the ability and willingness of people with disabilities to prosecute their rights through the courts. The necessary energy, confidence, know-how and resources are unlikely to be available to all. In CEE countries the absence of a tradition and of the institutions for civil rights litigation will make the introduction of anti-discrimination legislation an unlikely prospect for the near future.

## **Chapter 2**

# **Concepts of disability and discrimination**

This chapter attempts to show that traditional concepts used in Central and Eastern Europe to determine policy and the distribution of assistance are no

longer applicable. First and foremost there is a need to consider alternative concepts to identify people with disabilities.

## The concept of capacity to labour

Pre-1989 in Central and Eastern Europe, the notion of handicap related to the larger notion of a labouring society. A handicapped person was defined as someone who had partially or wholly lost the capacity to work, either as a consequence of injury, ill-health, or occupational disease. As such, the disabled worker was classified as someone needing special protection through benefits or re-deployment to light work. Usually the classification relied on medical examination to determine whether the person had a 'reduced ability' to work. People with congenital disabilities were treated differently from workers who had acquired their disability in the work process. For most, the only options were social assistance and family support, or employment in sheltered workshops.

## Degrees of disability

The definition was expressed through a concept of degrees of disability. In Hungary and Poland, for example, reduced ability to work was calculated in terms of the percentage of capacity lost, and this has continued. As of 1993 the law in Poland recognized three degrees of disability:

Complete invalidity: incapable of working, and requiring constant attention;

Serious invalidity: incapable of working except in special jobs in special conditions;

Partial invalidity: 45 per cent loss of work capacity, able to do less qualified work.

To estimate percentage loss of capacity requires (a) a notion of what is 'normal' capacity, (b) an understanding of the restrictions which will be imposed by the disability on a range of work-related activities and (c) a workable concept of 'suitable jobs'. Variations of this model are still fairly widespread throughout the whole of Central and Eastern Europe.

## Inaccuracy of concepts

This concept of disability is flawed. Its main advantage is that it seems to be a simple means of administering disability conditions in the framework of a command society. However, this simplicity conceals awkward disadvantages that make the method unreliable, in particular in a market economy context. There are three main difficulties:

## ***Capacity and normal***

Notions of 'capacity' and 'normal' are arbitrary, or at best subjective. An impairment such as deafness may be a serious handicap for the performance of some tasks but of little or no consequence in others. One implication is that if a worker suffered an occupational disease or injury, he or she would be registered as disabled even if capable of doing many other different jobs. It risks ignoring valuable skills and abilities and pre-disability technical knowledge.

## ***Who determines?***

It is not clear who should judge the capacity to work, or how it should be done. Medical examinations are not as easy to use for classification purposes as might be supposed. They usually ignore individual factors such as education, motivation, compensatory abilities, occupational skills. Without regard to this individual situation and the ability to perform they are pressed into a medical cliché. As the medical commission carrying out the classifications no longer has the power to direct disabled workers into predetermined work, the classification has a perverse effect. Because it stresses the inability to work, it contributes to disabled workers being dismissed, rather than aiding employment reintegration.

## ***Suitable jobs***

In specifying 'suitable jobs', the scope for arbitrary judgements is considerable. A job which may be hard to do with one technological configuration may become feasible after adjustments to the working environment. This implies that the perception of disability is a function of economic and organizational factors, rather than simply a medical or physical phenomenon. This shows that the old approach is ambiguous and likely to become, paradoxically, a source of discrimination and institutionalized disadvantage in the labour market. Once classified as disabled, a person could become an object of social policy rather than someone for whom there is a barrier to the realization of their potential. A barrier, furthermore, which could be overcome if the *individual* and the *problems* presented were analytically evaluated.

## Self-declaration of disability

In some countries, self-declaration of disability has been used for classification purposes. In Poland the population census since 1978 has defined a handicapped person by *legal status* or *biological invalidity*. The former applies if the person is classified as belonging to one of three groups of invalidity by a commission on invalidity and employment. The latter applies if the person declared him or herself as disabled. The combination of definitions was partially responsible for the huge rise in reported disability in Poland in the latter part of the 1970s.

The self-declaration method may be a useful indicator of the social perception of disability and health but, as a method of classifying people for policy purposes, has its drawbacks. It is not suitable for establishing eligibility for social benefits and access to specialized or compensatory employment or rehabilitation schemes.

Although the capacity-to-labour concept of disability has been criticized, it still strongly influences policy in Central and Eastern Europe, including the Russian Federation where it has been used in recent decrees and laws. Consideration should be given to replacement by the concepts embodied in *ILO Convention 159: Convention concerning Vocational Rehabilitation and Employment (Disabled Persons)* detailed in the next section.

## The ILO and WHO concepts

More appropriate concepts for all Central and Eastern European countries are those adopted by the ILO as the basis for *International Labour Convention No. 159: Convention concerning Vocational Rehabilitation and Employment (Disabled Persons)*, 1983, and for the related *ILO Recommendations concerning Vocational Rehabilitation of the Disabled*, 1955 (No. 99), and *Recommendation Vocational Rehabilitation and Employment (Disabled Persons)*, 1983 (No.168).

According to *Article 1 of Convention 159*, now ratified by several East European countries, disability is defined as follows:

For the purposes of this Convention, the term 'disabled person' means an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment.

The formulation 'whose prospects are reduced' means not that the work capacity is reduced, but that a disabled individual is likely to be perceived as being less productive. It can also be interpreted as pointing to the barriers and disadvantages a disabled worker may face in the exercise of his job tasks. This means that environmental factors and attitudes are recognized to be part of the problem. Furthermore, this definition implies that with proper measures, the disabled person, irrespective of his or her medical classification, could regain his or her place in the labour market. A direct link between the medically defined impairment and the employment situation is therefore excluded.

The ILO definition, formulated for the first time in 1981, thus echoes the WHO definition of the same year. The key concepts are: **Impairment - Disability - Handicap**. These terms have been defined by the World Health Organization in a health context and in an effort to persuade the medical profession that it is not sufficient to look at disability as a purely medical condition.

***Impairment:*** Any loss or abnormality of psychological or anatomical structure or function.

***Disability:*** Any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being.

***Handicap:*** A disadvantage for a given individual, resulting from an impairment or a disability, that limits or prevents the fulfilment of a role that is normal (depending on age, sex, and social or cultural factors) for that individual.

The crucial point is that 'handicap' is a socially determined measure. The *United Nations World Programme of Action concerning Disabled Persons* stated (Section C, para.6):

...'handicap' is, therefore, a function of the relationship between disabled persons and their environment. It occurs when they encounter cultural, physical or social barriers which prevent their access to the various systems of society that are available to other citizens. Thus, handicap is the loss or limitation of opportunities to take part in the life of the community on an equal level with others.

So, with the idea of handicap there is a sense that persons with certain characteristics, or who are believed to possess certain characteristics, face definable barriers or obstacles in the pursuit of their intended activities. Thus a disabled person may not face any handicap or may face a barrier that is related to his or her impairment or may face multiple handicaps that are only nominally to do with his or her impairment or disability. This leads to the issue of discrimination.

Before turning to that, it is worth noting another term in the legislative regulations that causes difficulties. This is the adverb 'substantially', as used in *Article 1 of ILO Convention No. 159*, which is difficult to operationalize equitably and efficiently. It is intended to ensure that policy should focus on those who have a real requirement for such assistance.

This leads back to the problems of defining 'reduced capacity to labour'. In some countries, such as Belgium, an attempt is still made to classify as disabled those whose 'employment capacity is reduced by at least 30 per cent by a physical disability or 20 per cent by a mental disability'. The UK's definition of a disabled person is someone 'who because of a physical, sensory, mental or psychiatric impairment is substantially handicapped in realizing his or her potential in the labour market'. To avoid confusion about the various definitions and classification systems, it is useful to distinguish two different legal purposes of the definition of disability.

One purpose is to identify those who have a right to obtain benefits and privileges. As most social security systems have an income replacement objective, the right to receive a benefit requires evidence that an individual is no longer able to earn a full income from work -- hence the tendency to define disability for this purpose as an individual with reduced earning capacity.

The other purpose is to provide legal protection for finding and maintaining a job. In this perspective the individual is identified as someone who has objective difficulties which entitle him to assistance for labour market integration. In this context speaking of 'reduced earning capacity' is counterproductive. Instead, the purpose of the assistance is to re-establish full earning capacity and to assure a potential employer that the disabled individual is fit for work and has the necessary abilities to make him a capable employee.

The definition of disability is therefore a function of the respective policy objective (social protection or labour market integration). It looks at an individual from the viewpoint of whether and how he or she fits into a given legal system. The mistake that is often made is to use that definition to attach a specific label to a person. Definitions are only legitimate if they help disabled persons to realize their legal rights. They should not be used to make disabled people the object of certain state measures such as relegating them to certain types of jobs or employment situations. For such reasons, most Scandinavian countries have entirely abandoned the definition and classification of disabilities.

Classifications will always be affected by who makes them, when they make them and for what purpose. All distinctions based on notions of incapacity or percentage loss of capacity or reduction in ability will reflect a mixture of objectives and motives. Some of these motives are legitimate, such as ensuring social protection where needed. Others are highly questionable, such as state bureaucracies believing that they have the duty to plan and direct the lives of people on account of a classified disability.

## Notions of discrimination

Discrimination is usually taken to mean the deliberate creation of barriers to equal opportunities, and to actions that lead to denial of equal opportunity to obtain, retain or advance in employment. Disability discrimination is particularly complex.

### ILO Convention 111 of 1960 concerning Discrimination in Respect of Employment and Occupation states

1. ...the term 'discrimination' includes --

(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the



effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.

2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.

Modern human rights practice recognizes three forms of discrimination; the first two are **evil motive** (overt deliberate discrimination) and **adverse differential treatment** (treating one group differently from another, deliberately or inadvertently). In considering the first two forms, it is noted that the discrimination faced by disabled persons often takes place with the best of intentions, a genuine concern about their capabilities and a desire to 'protect' them from harm, injury and embarrassment. However, whatever the motive, it does not excuse it, nor make the results of such treatment acceptable.

However, it is the third form of discrimination -- called **adverse impact or indirect or systematic discrimination** (the application of apparently neutral policies or practices that has an adverse effect on minority group members as compared to majority group members) -- that may be the most problematic for disabled persons. For treating disabled persons as everyone else may be a very subtle form of discrimination. An example would be the adoption of a policy which requires all job applicants to pass an oral examination; this would have an adverse impact on persons with profound deafness and consequential speech problems.

To treat all people the same is, sometimes, a form of discrimination. As a rule, we should understand and interpret the term equal treatment to mean equitable treatment.

## Reasonable accommodation

Legislation to combat such discrimination is a recent development in industrialized market economies, being most developed in Australia, Canada and US. The key feature, pioneered in Canada in the *Canadian Human Rights Act* of 1990, is that employers should make 'reasonable accommodation' to enable qualified disabled workers to obtain and perform the essential functions of jobs. In the three countries mentioned, this refers to the use of mechanical, electrical or human devices to compensate for an individual's disability, as well as to flexible working conditions. In Germany and the Netherlands, where legislation

has moved in that direction, employers are required to adapt workplaces generally, to make them suitable for workers with impairments.

## Undue hardship

Accompanying the concept of 'reasonable accommodation' is the view that such accommodation should be made through modifications to the work environment, the use of special devices, or the reorganization of the work processes, unless that doing so would impose 'undue hardships' on employers; once more we have a concept that is difficult to test objectively. It is partly due to this difficulty that policies in some countries have been moving in the direction of positive discrimination or, as in Canada, "affirmative action" (see below).

In human rights legislation there has been a steady strengthening of this approach. Fundamental to it is the principle that equality of opportunity should not be regarded as merely treating everybody in the same way. As Section 2 of the *Canadian Employment Equity Act* of 1986 states:

The purpose of this Act is to achieve equality in the work place so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal to correct the conditions of disadvantage in employment by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences.

## Affirmative action

This is an important principle. A difficulty which has arisen in some countries is that affirmative action may conflict with anti-discrimination regulations. So, one should differentiate between *legislated affirmative action* and *voluntary affirmative action*. In the United Kingdom, for example, the Government has preferred the latter, and has given mild incentives to employers to practise positive discrimination. The reservation about this approach is that there is no way of protecting those who face discrimination. Social pressure may or may not exist, and may or may not have any effect.

It is likely that, despite reservations about it in some countries, anti-discrimination and affirmative action pressures will gain strength throughout Europe. Central and Eastern European

legislators should take account of these currents in formulating new laws and policies. This will move the law away from treating issues of disability as a social-welfare policy or 'charity' issue and towards empowering disabled people by strengthening their rights.

## Conclusion

The social security concept of lost capacity to labour, and hence the whole concept of 'defectology' should be clearly separated from the process of assessing working ability. As a tool for determining labour market suitability it is unreliable and wrongly presumes that individuals possess a fixed set of capacities. Emphasis should shift to evaluating the potential of the individual to learn and perform a job or trade and to an understanding of what produces disadvantages in the workplace and the labour market. This would identify accommodating special needs in promoting opportunities for equal employment.

Paternalistic and purely protective notions of disability should be jettisoned. In Central and Eastern Europe, it is essential to devise concepts and classification systems that avoid stigmatising and diminishing the status of people with disabilities, as they aggravate the unemployment problem.

An impairment may not be permanent, and many disabilities can and should be overcome. Concepts and classifications which neglect these realities should be discarded.

## Chapter 3

### Access to work and employment

People with disabilities trying to find work have little in common apart from being disabled and wanting a job. However, they may all meet some degree of prejudice, discrimination or, at the very least, misunderstanding from the people and institutions they will deal with in the process.

Consideration of some of the differences will highlight the broad spectrum of problems and needs, and be indicative of the range and flexibility required by the policies and programmes required to meet them.

#### Age

People with disabilities without work but seeking it, come from the whole period between school-leaving and retirement. Clearly the problems, potential and service needs of a 17-year old, perhaps with a congenital disability, will be very different from those of a middle-aged family man needing to return to some form of work following a serious physical injury.

#### Onset of disability

The point in life at which a disability occurs has important implications for the nature of the rehabilitation processes required by a disabled individual. Most

attempts to classify disabled people overlook this. For example, within the disability of deafness, or hearing impairment, is a wide range of conditions. One end of the spectrum will be those with profound hearing loss at the time of birth or in the first years of life before speech is developed. This results not only in loss of hearing but in severe difficulties with learning and verbal communication. Some other deafness is gradual and related to ageing, or the effects of industrial noise; in these cases work performance and potential will deteriorate over time. Similarly, someone born with the congenital absence of one hand will adjust and compensate for this impairment differently from someone who has an arm amputated in middle years.

## Visibility of disability

Some disabilities are obvious, some are hidden or invisible. Some affect every minute of a disabled person's life, others may be sporadic -- as in the case of epilepsy. Some disabilities have a high profile and are increasingly catered for with architectural and other adjustments to the environment, e.g. where the need for a wheelchair is involved. Other disabilities such as severe facial disfigurements, either from birth or injury, receive no concessions and little consideration from society. The impact of the two types of disability on a potential employer when presented at a job interview is likely to be quite different, with the more physically restricting disability perhaps being preferred. Where disability is invisible as in heart disease, most psychological disorders, or epilepsy, the disabled person may be faced with the agonizing choice of when or whether to make the disability known in the process of seeking employment.

## Residual skills, specialist knowledge and ability to undergo retraining

Skills and knowledge are mostly related to the age at which disability occurs, but other factors such as education and professional qualifications may also play a part. Residual skills and specialist knowledge are often overlooked or even deliberately disregarded in the process of the simpler forms of rehabilitation. This is more likely to happen when the disability is the result of severe injury, the recovery period long and the previous occupation at the semi-skilled level. Where physical capacity has diminished, the disabled person is likely to be channelled towards some form of undemanding 'light work' which disregards his or her residual abilities. However, bricklayers, carpenters, electricians etc. recovering from spinal, leg or head injuries for example, perhaps with the benefit of courses to enhance their academic/clerical skills, may still be valuable workers in construction and design industries where their previous industrial knowledge and skills would be assets. Professionals such as architects, doctors or lawyers recovering from similar injuries are most unlikely to be 'rehabilitated' in undemanding light work, but will usually expect to find duties which reflect their previous knowledge, experience and status.

When residual skills in the same occupation are insufficient for the needs of an enterprise, it is often necessary to undergo complete retraining in a new task. This also offers the opportunity to identify an occupation where the disability poses no particular restriction. For example, through retraining, a bricklayer with severe lower back pain may turn into a store manager, the assembly line worker who has lost his hearing capacity, into a fashion tailor.

## Other variables including family circumstances

There will be other variations in the circumstances of each disabled individual, and the examples given above have barely touched upon the subject. Factors such as the degree of family support, or its absence, family and/or financial responsibilities, will also act as incentives or disincentives and determine the pressures involved in seeking training or employment. For some the urgency and degree of these pressures will be such that undergoing a vocational rehabilitation programme may be a luxury which cannot be afforded unless long-term financial and psychological support is also available.

Advocating more sophisticated procedures in the vocational rehabilitation of people with disabilities, and the employment of some specialists in the processes, should not be allowed to encourage the growth of an esoteric profession cloaked in mystique and mystery.

## Finding a job

Many disabled people seek, find and keep employment in mainstream occupations without recourse to any form of specialized help. In many industrialized countries large numbers of people with disabilities, possibly even the majority, manage their own employment concerns in this way, using only the services available in these matters to the general population. Apart from ensuring that everyone *knows* what special services are available, and where and how to get them if required, state policies should do nothing to interfere with the independence of disabled people in choosing their employment. Their ability to do so will depend on many factors including family support and connections, education and qualifications, demand for labour in their locality, willingness to be mobile for work, financial security, independence of spirit and motivation -- exactly the factors which determine employability among the non-disabled population.

## Vocational guidance

Most disabled labour force entrants require more vocational guidance than others and are likely to face greater barriers in finding it. Specifically, they are likely to need more information on:

- (i) jobseeking procedures and the availability of professional vocational guidance

(ii) the availability of and training in the use of specialist aids to work for disabled people

(iii) courses in vocational training, skill upgrading, literacy and numeracy

(iv) benefits and or financial support availability (if any)

(v) jobs locally and elsewhere

(vi) local support groups of disabled persons (if any)

(vii) the benefits of trades union membership.

Information on these, and other appropriate topics, needs to be readily available. It should not be limited to printed brochures, but also as verbal advice and counselling. It needs to be specially presented for those with intellectual, visual or hearing impairments.

Vocational guidance should start by asking 'what career might this individual reasonably expect to pursue if he or she were not disabled?'. And the objective of a rehabilitation programme must be to get disabled people into meaningful employment, satisfying both to them and to their employers, as expeditiously as possible and in proportion to their numbers in the population.

All policies, programmes and procedures should be based upon the foregoing premise.

Sound vocational guidance, where necessary utilizing practical and psychological assessment techniques, need to be available. Most Western European countries have special services for jobseekers with disabilities. Some are in specialized vocational rehabilitation centres, employment exchanges or by way of mobile assessment, guidance and placement teams each covering a limited geographical area. Often these services are provided through state-run agencies of central or local government, or through non-governmental voluntary agencies, or even through employer-led groups and the private sector of the economy. Some countries are experimenting with a mixture of service delivery methods with governmental, NGO and private agencies participating.

## Selective placement services

Selective placement is described in the ILO glossary of vocational rehabilitation and employment of disabled people as:

The process aiming at placing disabled people in employment suited to their age, experience, qualifications and physical and mental capacities. It should make use of all the normal resettlement services and provisions, in the light of the known

and carefully assessed needs of each disabled person. This is the final stage of rehabilitation and includes three distinct processes (1) knowing the worker; (2) knowing the job; and (3) matching the worker to the job.

The latest thinking in vocational rehabilitation might argue with the assertion that selective placement is the final stage of rehabilitation, because recent strategies of *supported employment*, much in use in Canada and the US particularly to help workers with intellectual impairment, involves rehabilitative support continuing for some period *after* placement in work.

In many countries selective placement is a function of specially trained Placement Officers, usually located in employment exchanges or employment offices of the state service. Traditionally, selective placement officers have been seen as having a social-work role, acting wholly in the interests of the disabled client. Having identified a suitable job for their client they have then sought to persuade a reluctant employer to 'give a chance' of work to the disabled person. More recently, employment support teams have been created, such as in France and the United Kingdom, which are closer to the interests of the employers and know and respect the needs of the enterprises.

Much rehabilitation fails at the point of mainstream job entry. This failure leads inevitably to the costly sheltered workshop option for too many disabled people. Therefore, an effective selective placement service must be mainstream results-oriented. The countries of Central and Eastern Europe would do well to ensure that the placement *link* in the rehabilitation chain is given priority, well designed and 'forged from the best material'.

## Employment promotion -- access and positive policies

There is a corresponding need to intervene on the demand side, by promoting employment opportunities for people with disabilities. Measures to promote access to open employment must involve the employment services, economic and planning departments, the various welfare-related ministries and, most importantly, the employers and the unions. In Central and Eastern Europe the majority of enterprises, in particular those of a larger size, are still public enterprises. These enterprises have a record of social responsibility towards workers disabled at the workplace. On the other hand, most have experienced the ineffective and unproductive use of the disabled workforce. When accountability and autonomous management were introduced, many chose to dismiss unproductive elements in the workforce.

Many governments reacted by introducing policies that imposed upon employers the obligation to retain or employ a certain percentage of disabled workers, and thus maintained pressure on the employer to accept a social responsibility.

However, as long as employers believe that such coercive measures harm their business they will not comply.

For these reasons it is argued that the placement or maintenance of disabled workers in the open labour market will only succeed if enterprises are not forced through legislation to employ specific numbers of disabled persons, but are assisted and guided towards constructing a comprehensive company policy promoting the employment of disabled workers. The aim of such policy, or code of ethics, would be to create the conditions for the productive employment of disabled workers through enterprise measures. This approach would appeal to the unions and disabled workers. The legislator may create rules that make the development of such a code of ethics a matter of priority (few enterprises volunteer to introduce such measures). For example,

a quota-based levy system that imposes levies on employers who do not comply, while providing incentives to those that do, could greatly facilitate the formulation of such policies. Appropriate policy elements might be:

Company employment policies should not discriminate against disabled people (e.g. by over-stringent health requirements for entry to the firm or government employees' pension schemes).

Persons responsible for hiring staff should be trained in an awareness of the potential of disabled people as employees.

Managers should be trained in simple work-environment modification techniques for enhancing disabled workers' performance. Simple modifications should be made to the physical structure of the workplace to facilitate accessibility for workers with disabilities.

Flexible and alternative work patterns should be offered to disabled employees.

Employees who become disabled should be retained, wherever possible, if necessary by retraining them in alternative tasks and skills.

The level of disabled people in the company workforce should be at least equal to their proportion within the general population.

Disabled employees should be offered employment contracts at par with their able-bodied colleagues.

Disabled employees should enjoy career prospects and promotion opportunities similar to the rest of the workforce.

Disabled people should be represented in staff/management consultative bodies.



Private and public sector employers that consistently demonstrate exemplary achievements in developing and following a code of good practice similar to that suggested above should be publicly recognized through an appropriate non-financial award. As the scheme gains recognition, other employers may wish to emulate or exceed the examples set.

Award schemes should embrace several categories of employers, according to their size and resources, to ensure that small and medium-sized firms do not face unfair competition from large ones whose scale of resources would confer an advantage.

By rewarding employers for their achievements, rather than punishing them for quota scheme failures, disabled workers are more likely to be viewed as assets than liabilities.

## Advancement in employment

Beyond the issue of entry into employment, there is the crucial matter of ensuring that all potential workers have access to as broad a range of jobs as possible. Often disabled workers are channelled into static, manual, low-paid jobs under-utilizing their capabilities and without prospect of advancement. This tendency stems from a common attitude which regards the placement of a disabled person into any job as the end of the resettlement story, and an event for which they should be forever grateful. Often the stultifying type of work into which they have been channelled accentuates their productive marginalization and their disability.

Ensuring that disabled workers have equal career prospects has received less attention from policy-makers everywhere than has the prior question of access to employment. This second step is required under *ILO Convention 159*, a clear improvement over the provisions of the *Recommendation No.99* of 1955.

In Central and Eastern Europe disabled workers have often been placed in low-skill, low-status jobs often in the lowest-productivity workshops of a factory, often in the worst work conditions and with the most obsolete conditions, bringing additional hazards. This tendency has not been unique to the countries of the region. Nevertheless, there is an urgent need to broaden the thinking about the protection and promotion of disabled workers. By focusing almost exclusively on the issue of access to employment, little attention has been paid to the questions of regular skill enhancement and career advancement. Disabled workers deserve skill-enhancing security just as much as other workers; in many cases this requires policy intervention to overcome inherent discriminatory practices and other barriers.

Ultimately, in a civilized society, employers will wish to base their recruitment practices on the principle of individualized evaluations of applicants rather than on preconceived ideas of how people with certain impairments function.

The pursuit of equal opportunities requires equal consideration and a willingness to make reasonable changes to job content and, if necessary, to the working environment. For most

workers with disabilities, mainstream integration should be the objective; only where such resettlement proves impossible should measures such as sheltered work be considered, and even then the rehabilitation policy must ensure periodic review of all cases.

## Chapter 4

# Employment security, safe working conditions and career prospects

Once in employment, workers require:

***Employment security***, i.e. protection against unfair dismissal;

***Safe working conditions***, i.e. protection against occupational disease and injury in the workplace;

***Career prospects***, i.e. regular performance reviews, opportunities for skill-upgrading and retraining, access to chances of promotion.

## Employment protection in Central and Eastern Europe

Before 1989, disabled workers enjoyed employment protection in Central and Eastern Europe. Enterprises were obliged to employ any workers with disabilities sent to them by local authorities or other placement agencies, and were expected to adjust working conditions to their needs. They were also obliged to facilitate medical examinations or rehabilitation courses in work time without loss of pay.

Disabled workers were entitled to work fewer hours or to part-time work on medical recommendation, and to additional leave. They were protected against employment termination; even when their work performance was poor they were rarely dismissed. For workers disabled by occupational disease or injury, the employer was required to cover the costs of vocational retraining, to re-deploy them within the enterprise and to compensate them for any loss of working capacity. These obligations were part of the labour code.

As a consequence, enterprises minimized their cost liabilities by placing disabled workers in unimportant jobs. When disabled workers were absent under the protective provisions of the labour code the effect on production was minimal. Due to inadequate funding, workplaces were rarely adjusted to accommodate disability, and most could not easily be upgraded. People with severe disabilities were often shunted into sheltered employment.

Since 1989 the scale of former privileges within many labour codes has been reduced. Disabled workers have less protection against dismissal and usually there is no obligation to recruit people with disabilities or, if there is, failure to do so attracts only a modest penalty. With occupational injury, the employing enterprise is still obliged to pay compensation but is not required to re-employ the worker if no suitable job is available. In a few countries (Hungary is an example) the employer remains responsible for vocational rehabilitation and retraining.

Laws in Poland and Rumania stipulate the right of disabled workers to rehabilitation, retraining, shorter working hours and additional leave, but emphasis is put on sheltered employment rather than on adjustments to facilitate continuing in mainstream employment. Except in cases of occupational injury, employers are not obliged to make such adjustments.

The situation prior to 1989 may be considered as artificial and over-protectionist, where disabled workers were supported with jobs rather than having their potential recognized and properly used. The shift towards a market economy is eroding the former protection but has yet to replace it with progressive policies which would enable people with disabilities to achieve economic self-reliance through employing them efficiently.

Countries that are in transition to some form of market economy, and enterprises that are exposed to competition from the world market, are experiencing fundamental changes in working conditions and practices. For example, in a planned economy system there was little wage differentiation and often a deliberate system of low wages for professional staff such as medical doctors and higher wages for the manual worker. Consequently, there was no financial incentive for educational upgrading. The progressive introduction of wage differentials based on qualifications will increase the importance of further training and retraining, quite apart from the fact that economic survival will necessitate a reappraisal of the existing training policies and generate a need to establish more dynamic training and retraining possibilities.

The potential that upgrading and retraining can play for the integration of disabled workers was largely overlooked in the previous system. Without a training or retraining strategy and the provision of training opportunities, quota legislation will not achieve its goal of enhancing labour market participation of disabled people. From among all possible measures that may be provided to assist disabled people into employment, training is the most important. In a

competitive economy the 'light work' and low skill option has no future. Consequently, disabled workers can only expect to compete if they possess skills that are in demand.

## Protection against poor working conditions

The promotion of safe working conditions has not commanded high priority in the reform processes of Central and Eastern Europe. There are reports of the abandonment of health and safety procedures, of cuts in investment in safety equipment, anti-pollution devices and other working environment protection. The social and economic consequences will be serious.

By contrast, most industrialized countries have strict occupational health and safety laws. The European Union has health and safety at work high on its agenda and can pass the relevant laws by majority vote.

Health and safety in the workplace is vital to all disability prevention policies. In the drive for short-term productivity and profits, impatient managements may regard the time of safety committees and the strict adherence to all safety procedures as counter-productive. But, in human and financial terms, the cost of lost time and output through sickness and permanent disability will prove greater in the medium and longer-term.

Legislation in health and safety should be designed to ensure that, by means of severe penalties for non-compliance, it is incontrovertibly in an employer's interest not only to prevent disability but also to *promote* the health of the workforce.

The evidence is that disabled workers are less prone to accidents at work than non-disabled staff. The first-hand insights of people living with disabilities make many of them particularly suited to service on works safety committees.

## Career prospects

One of the main themes of this policy guide is that the provision of a job is not enough to satisfy the needs and the rights of people with disabilities. Although attitudes have improved in recent years, particularly since 1981 and the *United Nations' International Year of Disabled Persons* (IYDP), there is still a widespread view that getting a disabled person into a job is the end of the rehabilitation process, and the end of any obligation on the part of the employer. Some employers are still proud to show off *their* blind telephonist, or wheelchair-user receptionist, or one-armed messenger/attendant by announcing that this disabled employee has 'been with the company for years'. With the company for years, yes, but doing precisely the same task, *assumed* by management to be happy, grateful and to not mind being shown to everyone as 'our disabled worker'. Usually it has never occurred to the employer that the disabled

individual may have the potential for career advancement, or might benefit from retraining, or could be more valuable to the company doing something else, or might have his or her own career ambitions.

*All* employees, disabled or not, ought to have annual performance reviews during which they and their line-manager sit together to discuss the content of the work assigned, how well or badly it has been performed, how it might be performed better, problems presented and how they might be overcome, the expected work content of the next twelve months, the employee's training needs, and whether a change of task or a promotion would be appropriate. In many government and large commercial enterprises such annual appraisals are standard personnel management procedures. The effect is better use and development of the enterprise's human resources, improved output and higher staff morale. In smaller companies these procedures are less common. Even among enterprises practising annual performance reviews, disabled staff may be excluded or given only a token review interview on the assumption that the employee with disabilities could not be anything but happy just to have a job -- any job.

Annual work appraisal methods are not only sound personnel policy but part of job security. In place and properly managed, with disabled workers fully and seriously included in the process, they ensure access to appropriate training. If the employer lacks the facilities for training on-site he may identify the availability of training elsewhere and make the arrangements. Contrary to widespread belief, disabled workers can usually participate in any training programme for non-disabled workers. Minor adjustments to the training curriculum may sometimes be necessary but they can usually be made by the trainer as a matter of common sense.

Ensuring that employees with disabilities are not excluded from any part of a company's personnel management procedures should be part of any code of good employment practice and, as such, encouraged by official government guidelines or national regulations. Such policy development is necessary if disabled people are to function in mainstream employment throughout their working lives.

## Flexible working arrangements

Labour legislation in some countries has established work entitlements for disabled people in the national workforce. Such legislation caters for limiting working hours, providing entitlement to paid holidays, time off to have further rehabilitation or rest, and for flexible work patterns. Workers with severe impairments sometimes have the right to shorter working time and additional leave. They are protected from enforced night work or overtime. Under the legislation of some states an employer must make arrangements for part-time or flexible hours if medically recommended. Such special provisions are often a reason for not employing disabled people. However, the trend the world over is

towards more flexibility in working hours, and the interest of the worker in shorter working hours may well be to the advantage of the enterprise.

Where legal protection affects the productivity of a disabled worker, employers may ask for compensation. In fact, in many countries, such as Australia and Sweden, the State provides for wage subsidies to offset losses in productivity. In other countries such as France, levy funds may be used for this purpose.

## Chapter 5

# Wage and income protection

One of the greatest challenges in modern society is to create sustainable income security for all its members and to do so in an equitable fashion. In that regard, those with disabilities face *common* needs and may face *additional* needs due to extra costs of living and to the need for compensation for added economic risk and uncertainty.

Social mechanisms intended to protect the income security of people with disabilities consist of income protection measures as well as social benefits intended to alleviate the disadvantages that disabilities cause in daily life.

There are five sources of income insecurity for those with disabilities, and all have become acute in most of Central and Eastern Europe:

Disabled people may have difficulty in obtaining mainstream social benefits, owing to problems faced by everybody because the social protection system has become incompatible with labour market developments, notably unemployment, and the needs of all those requiring financial assistance.

They may have additional income needs -- medical, equipment and so on -- and many of these have not been met.

They may face wage discrimination, including access to employment-related fringe benefits.

They may receive lower earnings.

They *may* have lower productivity, leading to lower incomes.

These are quite distinctive forms of income insecurity, requiring different policy responses. This chapter deals with the various forms of income protection for people with disabilities in and out of paid employment. An underlying policy question of the chapter is :

*How should public expenditure best be used to reduce or compensate for the five forms of income insecurity?*

The chapter reviews the options by assessing schemes for the three groups in turn, beginning with forms of transfer to the disabled persons themselves, then transfers directly to employers and finally transfers to and through public and private 'agencies'.

## Income transfers to disabled persons

Income transfers from the government to disabled persons may be divided into those that are essentially *compensation* for being economically inactive or for obstacles in trying to become or remain economically active and those that are *incentives* to work activity and productivity improvement. The distinction is not ideal, since in many cases there is an overlap. However, it should help clarify policy thinking about the desirable mix of measures.

## Inactivity compensation

In designing a system for providing income security for those with disabilities outside the labour force, a basic principle is that they should be entitled either to long-term or to short-term benefits to replace 'lost' income. In practice, these take three forms:

Short-term sickness benefits, for absence from work due to general or employment-related injuries or disease, often known as temporary disability benefits;

Long-term disability pensions, whereby disabled persons are financially compensated for impairments caused by general or employment-related accidents or disease.

Long-term disability benefits or social assistance, whereby transfers are provided to someone who does not qualify for a disability pension.

A system of social protection should cover all three forms of contingency implied by that classification, and should also provide the regulatory framework for other compensatory benefits to be provided by employers to people with disabilities.

In general, the advantage of an integrated system of these three forms of benefit is that it may compensate for income inadequacy among those outside the labour force. What is difficult is to achieve a balance between the relative weight to be given to each type of benefit, and to ensure that the conditions set for entitlement are fair, financially feasible and operational.

There are drawbacks with most compensatory benefits. They may encourage inactivity or lead to very prolonged recuperation, and thus be costly and inefficient. In some countries, this perception has led to tighter controls over entitlement, and a drift towards means-tested social assistance. Unfortunately, this is likely to result in low 'take-up' of benefits among some groups resentful or scared of going through the procedures required by the authorities. Eligibility criteria should be kept under constant scrutiny for objectivity and be standardized, as well as sensitively applied.

If entitlement is made conditional on non-employment, as is usually the case, it may act as a barrier to partial or gradual labour force re-entry. Unless the scheme is carefully designed, the person may lose the entire benefit if a part-time or low-income job is accepted, thus making it financially unattractive. This condition has been a cause of high unemployment among disabled people in the US where, in 1993, nearly 30 per cent outside the labour force cited prospective loss of benefits as the main obstacle preventing them from entering it.

Under German law, compensation is not payable until the disabled person has undergone vocational rehabilitation. This policy motivates the disabled person towards resettlement in employment. The result is that medical and psychological assessments are made in each case, former skills and work habits revived, new skills taught and the disabled person is in touch with job-placing services. People cooperate with the rehabilitative regime, encouraged in part by the prospect that income from work will be higher than compensation. Meanwhile they are supported by state disability benefits during the time they undergo rehabilitation. This progressive law compares well with those of other countries, in the United Kingdom for example, where claims of compensation for injury claims often drag on for years, delaying any action towards rehabilitation, in the belief that long-term loss of work will enhance the size of the compensation payment. This results in lost working years, deteriorating skill levels and reduced employability.

The crucial factor in determining access to benefits should be need for income, the conditions for receipt should be clear and uncomplicated.

### ***Short-term sickness benefits***

General sickness benefits should be available for all workers. A first principle here is that short-term benefits for employment-related injury or disease should be provided to disabled persons within the same rules that govern sickness benefits for other workers. However, in determining eligibility, since short-term disability benefits are considered compensation for employment-related injury or ill-health, benefit conditions may be more generous than for general sickness benefits, and certainly there should be no additional qualifying conditions and no waiting period.



In most industrialized economies, the practice is for benefits to be paid until the person recovers or becomes eligible for a disability pension. Benefit levels are either the same as general sickness benefits, as in Germany, Luxembourg and the Netherlands, or higher, as has been the case in Belgium and Canada, and in most of Central and Eastern Europe.

Two concerns in respect of such benefits should be monitored very carefully by policy-makers, especially those just introducing them or modifying their form.

First, cost pressures are likely to induce pragmatic modifications of policy that may become arbitrary unless the implications are borne in mind, leading either to lower benefit levels, tighter criteria for establishing eligibility or a reduced scope for coverage by the benefit in question. Pressure to cut social expenditure is a painful reality in Central and Eastern Europe, and will be strong for some time. For that reason emphasis should be put on increasing the positive incentives for economic activity and on removing obstacles to employment rather than on reducing compensatory benefits.

Second, there might be an international trend towards private and company provision of health insurance. This may be either supplementary to public provision or a substitute for it. Private provision should be welcome as an option, if it is supplementary. The danger is that the public social protection system could become secondary, neglected and under-funded, and no longer a means of promoting social solidarity and equality of social protection. This would be a serious threat to income protection for disabled people and other socially disadvantaged groups.

A related danger is that private benefits could intensify unequal social protection, whether they were supplementary or a substitute. One problem is that some insurance companies or private schemes exclude 'high risk' categories of workers, resulting in unfair discrimination against people with disabilities or those with a chronic illness. It is essential to prevent this.

### ***Invalidity pensions***

Invalidity pensions, as defined by *ILO Convention No. 102*, may be paid to those who withdraw from the labour force for disabilities that are either employment-related or unrelated to employment. Being contributory benefits, there are difficulties in determining eligibility. They are usually made contingent on non-employment and a specified record of past employment, such as a minimum number of years of employment or of paid social insurance contributions.

Invalidity pensions may be flat-rate, that is, an equal amount is paid to those entitled to them, or they may be related to past earnings or number of years of past employment. Usually, full disability pensions are paid for a medically certified degree of 100 per cent invalidity, which implies total incapacity to work. For less severe incapacity the authorities usually pay partial disability pensions.

The amount paid as disability pension, if due to employment-related injury or disease, is usually either equal to other disability pensions, as in Finland, or higher, in which case it is often stipulated as a fixed percentage of the beneficiary's last earnings, as in Germany and in most of the US.

To the extent that the financing of disability pensions is contributory, the contributions may be paid by employers or by employers and workers. In countries where temporary and long-term employment-related benefits are provided by separate branches of social security, benefits are normally financed exclusively by employer contributions.

There are two general concerns over the development of invalidity pensions in Europe. With the spread of more flexible labour markets, groups on the edge of them may not accumulate adequate contribution periods to qualify for such pensions, particularly if they change jobs a lot or work part-time or in informal activities, or they may qualify only for an inadequate benefit. This is a long-term problem, and so far has typically required the authorities to resort to social assistance benefits to 'top up' disability pensions. With the development of invalidity pensions in many Western European countries, the invalidity provisions of pension schemes have been used to lessen measured unemployment. Eligibility conditions for invalidity pension have been eased to facilitate the 'invalidity outlet' from the labour market, in particular for older workers. Labour market pressures have led to less stringent medical examination of invalidity pension cases, while the desire or willingness of disabled persons to return or remain in the labour force often has been sacrificed to lessen recorded unemployment.

For those awarded disability pensions, this has an unpleasant connotation: with interest in integrating them into the labour force declining, their chances of benefiting from proper medical and occupational rehabilitation measures are also likely to diminish.

Policy-makers should avoid using invalidity pensions as a means of pushing those with disabilities out of the labour force into premature retirement. It is an inequitable policy, likely to induce many forms of discriminatory treatment. It is also likely to intensify the impoverishment of those with disabilities.

### ***Disability assistance***

Usually, workers whose disability is not caused by an employment-related injury or disease, and who do not satisfy eligibility conditions for invalidity pensions or short-term benefits, have to rely on means-tested social assistance benefits. This most affects young workers with short employment experience.

As with all forms of mean-tested benefit, this has the advantage that it offers some minimal income support for those locked out of the mainstream system of income protection. The disadvantage is that procedures may be complex,

intrusive and arbitrary, and stigmatization can lead to low take-up among those who would be entitled.

### ***Injury compensation***

In Central and Eastern European countries, enterprises employing workers injured at work have been obliged to pay them compensation. This derived from old employment injury compensation laws that defined obligations in cases of employment injuries. It proved unsatisfactory: enterprises were unable to pay adequately; it was abandoned in favour of social insurance.

In some countries, such benefits have been replaced by social security laws providing for compensatory benefits -- the amount depending on the degree of permanent disability or harm done to a worker's health -- paid either by the government or by employers. If such benefits are paid by the government, that frees workers from the need to prove in court that an accident or a disease was the enterprise's fault, rather than an accident, or his or somebody else's fault. This has evident advantages for both worker and employer. If compensation must be paid by the employer it implies that the latter must be found at fault by a court, unless the employer chooses to accept responsibility. The disadvantage is that it may lead to lengthy legal proceedings, which could result in the postponement or loss of benefit, since a company can afford such cases more than an individual worker. The advantage is that it imposes costs on enterprises that may make them more determined to implement safety procedures.

Injury compensation procedures should be the subject of collective agreements, with clearly established procedures for compensation that reduce the prospective costs and time taken to settle claims. Such injury compensation should be separate from pensions, which should be provided by social security mechanisms.

### **Activity compensation**

A wide range of income transfers may be made available to compensate for trying to be in the active labour force, for overcoming the additional costs and disadvantages that may be faced by those with disabilities in employment or self-employment.

These encompass six main forms of compensation.

### ***Unemployment benefits***

The basic principle for compensating disabled persons for a period of jobseeking unemployment is that the benefits and conditions for receipt of them should be equivalent to those for other unemployed persons, which may mean additional payments to compensate for the costs of jobseeking.

The most worrying tendency in some Central and Eastern European countries, such as the Ukraine, has been that of excluding disabled persons from entitlement to unemployment benefits, presumably on the grounds that they can or do receive disability benefits or pension. This mixes up two functions of compensatory benefit provision. Unemployment benefits should be treated quite separately from any disability-related benefit, even though they could be paid at the same time through the same offices.

### ***Means-tested social assistance***

This is typically available for the employed, unemployed and those outside the labour force. For those in employment, this may take the form of income support through means-tested income supplements, generally paid through the social assistance system. These are intended to fill the gap between the disabled person's income and some subsistence level.

Subsistence needs for people with disability are usually higher than the income offered by the social assistance system to others. As such, there should be special supplements. However, means-tested social assistance schemes should not become a main form of income support, since there are major practical problems of low take-up and arbitrary disentanglement.

But social assistance schemes might have special eligibility conditions for the long-term disabled which merely refer to the degree of disability and forgo means testing for certain categories of disabled.

### ***Special social security provisions***

Like everybody else, disabled workers and their families need protection against risks unrelated to or only marginally related to their disability. They need entitlement to short-term sickness benefits, unemployment benefits, health care and pensions. To compensate for disadvantages due to disability these entitlements have often been based on privileged provisions.

The most common preferential social security provision is a lower rate of social insurance contributions, paid by the state or relevant social insurance scheme. Income-related benefits, such as unemployment benefits and pensions, might be too low if calculated on the basis of the low or irregular incomes of disabled workers, notably of those working in sheltered workshops. In Germany, for example, the state finances the contributions for the difference between the wages of disabled workers in sheltered workshops and about 75 per cent of the average wage.

In this context, there is rarely a need to consider preferential contribution rates for health care schemes, since most health insurance systems provide benefits according to medical need regardless of contributory payments by the insured person, regardless of the amount of contributions paid.

## ***Tax concessions***

Another form of indirect income support for workers with disabilities is tax advantages or concessions.

These have taken three forms:

Tax credits, paid to all those with a medically certifiable disability;

Tax breaks, provided for those with particular impairments, such as blindness;

Tax-deductible purchases of goods and services, to ease the life of disabled persons.

In the case of tax credits, a disabled person is entitled to earn more than others before having to pay income tax. This has the advantage of being a redistributive mechanism of lessening the likelihood of 'benefit traps' (the point at which a person may lose more in lost benefits than gaining in earned income).

With tax breaks, individuals may be entitled to pay lower rates of tax on earned income, again having the advantage of being a redistributive device to compensate for the probability of earning a lower income.

With tax-deductible-purchases, they are desirable to compensate for higher costs of living, and may help reduce the prospect of social marginalization.

All three routes to compensatory income are universally recommended as part of governments' package of social expenditure measures for those with disabilities.

## ***Financial and material allowances***

Workers with disabilities may be provided with allowances or material intended to compensate for the additional and recurrent costs directly associated with working. Such allowances may consist of regular, recurring payments to disabled workers, or be payments and/or privileges granted for specific purposes.

In Central and Eastern Europe, there is a tradition of compensatory allowances for the extra costs of work. In Romania the most severely disabled persons have the right to twelve free train rides annually, those with a second degree of disability to six free rides. Although small measures in themselves, they may make a big difference to the life of those benefiting from them.

Outside Central and Eastern Europe, direct measures have taken numerous forms, and deserve to be studied by policy-makers in the region, bearing in mind that for many individuals such compensatory measures may make the difference between participation and non-participation in the labour force. A few simple

measures could turn a person from needing a full income support by the government into an income-earner and potential taxpayer.

In 1992, Denmark introduced a scheme through the public employment service to provide personal assistants to employed and self-employed people who need help to perform their work. Thus, secretarial help is given to blind and deaf people, and interpreters are provided for the deaf during meetings and training courses. Partly as a result, Denmark has come to be regarded as the European country doing most to facilitate the employment of those with hearing impairments.

In the United Kingdom and Germany, disabled people receive subsidies to help cover commuting to work, or are entitled to reduced fares on public transport. Most travel costs for medical treatment and vocational rehabilitation are covered by the national health systems. Many countries provide subsidies for motor vehicles adjusted to the needs of disabled people; if such vehicles are not available in the country, they may be imported duty free.

In many countries, people with disabilities are entitled to free or subsidized technical aids and medicine. Cheap tickets for theatres and cinemas, exemptions from licenses for radio and TV and cheaper phone calls are other concessions. Priority in renting or buying accommodation from public housing agencies, or preferential access to housing situated near their workplace is sometimes available.

Such direct payments in money or in kind deserve to be extended as more open labour markets develop. Despite their apparent cost, they may be a very efficient form of compensatory benefit, since they lead to more disabled people coming into the labour force and more remaining in it.

### ***Rehabilitation compensation***

Workers injured in employment may be compensated by the employer or by the State to enable them to remain in the job or to move to another job in the same enterprise.

In many countries, employers are obliged to cover all or part of the costs of vocational rehabilitation for workers injured in the workplace. If there are no suitable jobs and it is impossible to create them due to the character of production, the firm must inform the local labour office and cover costs associated with the creation of jobs in other enterprises or institutions. In any case, employers are obliged to supplement the wage of such disabled workers to the previous level (or to a certain percentage) or their pre-injury earnings. The extent of compensation as well as other financial obligations of employers vary. If an injury is self-inflicted, the worker has no right to compensation, and costs of vocational rehabilitation are usually covered by the national health care system.

## Activity incentives

Income-based incentives for disabled persons to enter or remain in the labour force or to encourage advance in employment have become increasingly popular instruments for mainstreaming. They come under three headings: those encouraging self-employment, those encouraging wage employment and those encouraging training and vocational rehabilitation.

### ***Incentives for self-employment***

In most industrialized countries, in recent years there have been numerous schemes to provide credit to those with disabilities to help them start up a business. Private sources of funds tend to be wary of 'risk groups' of which disabled people may be one. Therefore the government may have to act as loan guarantor for private loans or lend the funds directly. Either way, it acts to provide an enhanced incentive to such self-employment. The alternative might be paying unemployment.

### ***Incentives for wage employment***

There are three main forms of incentive to wage employment. First, workers may be provided with a wage subsidy, which should be differentiated from the payment of a wage subsidy to the employer. The wage subsidy paid to the disabled worker may take the form of a payment to compensate for measured or presumed lower productivity. In some countries, this is the norm in sheltered forms of employment. Thus, in France workers in sheltered workshops are guaranteed wages of 50 per cent of the usual wage, with the difference between that and the minimum subsistence level being paid by the State through the employer.

Second, workers may be provided with grants for workplace adaptation or to enable them to purchase special equipment.

Third, workers may be provided with special earned income allowances, so entitling them to continue to receive some disability benefit or other benefit. For instance, in Denmark a disabled person may work for one-third of the lowest wage for a job and continue to receive a disability pension. Such measures enable the person to earn a small income without losing as much or more in forgone social transfers.

### ***Incentives for skill acquisition***

To encourage disabled persons to enter or remain in employment, the government may provide a mix of grants to pay for training and rehabilitation courses, direct payments in the form of stipends, and loans to cover direct and indirect costs of training.

As discussed in Chapter 6, taken in combination they should form a vital part of the policy of mainstreaming and of providing equal rights for disabled people.

## Transfers to employers

The second major flow of public expenditure to provide income security and employment for those with disabilities consists of payments to and allowances for employers. Such flows have three intended functions - to reduce the cost of hiring or retaining workers with impairments, to provide financial incentives to employers and to stimulate improved productivity. Often these functions overlap, although it is useful to distinguish between them. There are four main forms of income support channelled through employers.

### ***Wage subsidies***

In many countries, to encourage firms to hire or retain persons with disabilities, wage subsidies have been provided to compensate for actual or presumed lower productivity and for any costs for job adjustment.

In Belgium, wages in open employment are subsidized for a limited period, to help disabled workers to adapt to the job, the subsidy declining by stages over a year or so. The Australian Job-Start scheme offers firms subsidies of about A.\$50 per worker for the first six months, besides lump-sum payments for modification of the workplace. In Germany, the subsidy may reach 80 per cent of the wage and be paid for two years.

Subsidies are also available in some countries of Central and Eastern Europe. In Hungary, a firm may receive 35 per cent of the gross wage, and special workshops may receive up to 45 per cent, without time limit. In Bulgaria, enterprises hiring a disabled person are granted a subsidy of the minimum wage for 12 months.

In some countries, sheltered workshops and enterprises receive a wage subsidy for each worker with a disability. In Belgium, the government pays an amount equal to 65 per cent of the remuneration paid by a sheltered workshop to its workers. If the firm is new, the subsidy may be increased to 70 per cent for two years, as long as the disabled person receives at least the minimum wage.

The Netherlands pay up to 100 per cent of the wage fund to firms providing 'social employment' to disabled workers. In Hungary, the wage subsidy to sheltered workshops can reach 140-300 per cent of the wage paid to disabled persons and one workshop received 500 per cent subsidy in 1991.

Subsidies may be provided to enterprises by the employment service to protect jobs of disabled persons. This is practiced in the Russian Federation, where district employment services provide loans or grants to enterprises out of the



Regional Employment Fund, with the intention of preserving jobs for specific groups, including disabled people.

There should be reservations about the simple attraction of such job protection measures. If the subsidies go to pay the wages of the disabled workers, they will tend to lead to a continuing demand, and thus not do much more than to postpone unemployment. If, however, they go in large part to investment in new equipment or training, then it may lead to a positive return on the investment and more secure jobs in the future. To be effective, such schemes need to be carefully designed and carefully monitored.

### ***Work adjustment grants***

In addition to wage subsidies, subsidies for workplace adjustment and technical aids may be provided. Often no distinction is made between kinds of adjustment cost; subsidies are granted to investment and operational costs of firms employing disabled workers.

Most sheltered workshops and enterprises, in all parts of Europe, receive subsidies on their investment and operational costs, on condition that they create a fund for vocational rehabilitation. The amount of subsidy is regulated by provisions intended to help them to be profitable (or at least survive) under market conditions. Such assistance may have perverse effects: notably when enterprises are privately owned, subsidies may be transformed into 'profits', as claimed in Hungary.

In some countries, such subsidies have led to an apparent increase in the number of disabled persons, because employers oblige or encourage workers to apply for disability status to obtain them. Although assistance for employers offering jobs to disabled people in open or sheltered employment is widely used, the labour market effects of wage and workplace subsidies are small. Studies carried out in Australia and United States show the effect on employment to be disappointing.

To raise their effectiveness, wage and workplace subsidies should be accompanied by promotional efforts and job-oriented training programmes.

### ***Tax concessions and 'set-up' subsidies***

Under such schemes employers are partially exempt from wage taxes or social insurance contributions for disabled workers. In Poland, firms exceeding quota obligations have their wage tax reduced, with half the tax reduction being transferred to the State Rehabilitation Fund for the Disabled. Sheltered workshops are exempt from all taxes except consumption taxes on items such as alcohol and tobacco, but are obliged to transfer 90 per cent of the tax reduction to an enterprise rehabilitation fund and 10 per cent to the State Rehabilitation Fund.

In the Czech Republic and the Slovak Republic, enterprises are entitled to an annual tax rebate of 7,500 CZK for each disabled worker, and 22,500 CZK for each severely disabled person. In special enterprises employing at least 20 workers in which more than 60 per cent are disabled, the tax break is 50 per cent.

### ***Rehabilitation and retraining assistance***

In many countries, employers are provided with wage subsidies for recruiting workers with disabilities if vocational rehabilitation and training are provided. The Netherlands have an additional subsidy for special initial supervision or training to ensure the individual's employability.

Wage subsidies should be linked to the provision of rehabilitation training and supervision, and the subsidy phased out gradually. The employer should be obliged to retain such workers for at least six months once that subsidy has been ended.

Longer notice of contract termination for workers with disabilities would allow local employment or welfare services to see if further rehabilitation or wage subsidy would avoid employment termination. Wage subsidies and rehabilitation should be closely linked.

## Transfers through agencies

A feature of public income protection measures in all countries is that delivery of transfers is not entrusted to a single agency. Benefits are delivered to disabled persons by public agencies of the social protection system. Provisions for disabled workers permeate that system, covering tax-financed social-assistance and universal benefits (e.g. family and health care benefits) as well as social security schemes (e.g. unemployment benefits and pensions). Legal provisions governing benefits are scattered, from the labour code to social security laws.

Income transfers to compensate disabled persons and employers and to provide incentives may go direct from central government or through public local agencies or through enterprises themselves, and may even go through NGOs. These should be recognized as having a role as intermediaries, particularly those organizations representing a specific category of person with disabilities.

In Central and Eastern European countries, many disability benefits have been implemented through subsidized social employment -- forms of employment provided to those with disabilities that could not be sustained otherwise. Until recently, such employment accommodated many disabled workers whose productivity might not be competitive under market conditions. As much of the social protection system was implemented by the enterprise -- provision of short-term benefits, medical care at the workplace, housing, rehabilitative and preventive measures and so on -- disabled workers had reasonable access to

social benefits and services. That agency function is changing, bringing difficulties of adjustment and denying many disabled persons access to income protection because the alternative avenues have yet to be established.

The public employment services should be a convenient and efficient agency for income transfers. The services need income to develop specialist staff to cater for the needs of employed workers, the unemployed and those on the margin of the labour force.

The question that all governments of Central and Eastern European countries will have to face :

*Should public funds be directed to specialized labour market schemes for disabled persons or should they be used mainly for general labour market policies in which disabled persons participate?*

The answer surely must be that it is preferable to use public funds for schemes in which all groups of worker participate equally, and for the officials in public agencies to operate those equitably.

## Wage discrimination

It would be quite unreasonable to assess the issues of income security of those with disabilities without considering the very serious problem of wage discrimination, which has implications for the whole system of income protection.

Since employers everywhere are inclined to believe that people with disabilities are less productive, they easily rationalize paying them lower wages.

Unfortunately, data on such wage discrimination are scarce, since it is hard to show statistically that wage differentials are wholly or partially due to disability. However, it is generally recognized that such discrimination is widespread.

## Statutory regulations

In countries using quota systems, the right to equal pay has been expressed as a general principle, which has been the way of protecting disabled workers in Central and Eastern Europe. In Western Europe, legislation has usually stipulated a right to an income supplement if wages are lower than the minimum wage or than an income guaranteed for those with disabilities, as in France.

A practice of paying lower wages exists particularly in sheltered workshops and enterprises that are automatically considered less effective even when they are profitable. The situation in Central and Eastern Europe is particularly bad in this respect.

Workers with disabilities in Bulgaria on average receive only three-quarters of the minimum wage (homeworkers less than a half) and in sheltered enterprises less than a third of the average wage. Such differences are common in the region.

Governments may try to protect the incomes of disabled workers by guaranteeing minimum wages. Thus, a French law of 1987 stipulates that the wage of disabled workers in regular workplaces cannot be lower than 80 per cent of the wage of others in the same establishment.

## Equal rights legislation

Anti-discrimination laws in the United States, Canada and Australia make it unlawful to discriminate against people in remuneration on grounds of disability. Does it work? Not well, by itself. In the United States, on average those with disabilities still earn 39 per cent less than others. Wage discrimination is difficult to prove, and many disabled people put up with it from fear or because they consider it an employer's compensation for giving them preference over others.

Yet equal rights are intended to overcome such practices. They have at least two advantages over reliance on statutory regulations. They set social standards of good practice, and they offer the prospect of empowering those with impairments, enabling them to change wage discrimination and demand equal pay.

## Policy options

For the longer term, laws promoting equal rights are essential. Meanwhile, what else is to be done about wage discrimination? Four approaches are possible:

- i. Insist on employers paying equal wages for all workers in comparable jobs, regardless of possible differences in efficiency;
- ii. Provide subsidies to employers to compensate them for having to pay equal wages when productivity differences exist or are presumed to exist;
- iii. Provide workers with subsidies to compensate them for lower wages;
- iv. Provide the specialized training, support services or additional equipment needed to raise the disabled person's potential productivity to the average.

If the first approach were followed without the second, then it could result in increased employment discrimination against disabled workers, i.e. an unwillingness to recruit those believed to have lower potential productivity. It is misguided to think that simply banning wage discrimination or putting clauses into labour codes would be adequate.

If the first and second approaches were combined, there would be less likelihood of job segregation than if only the first were pursued, since applying the principle of equal wages for equal work by itself might merely induce enterprises to put workers with disabilities into jobs with different titles or into low-productivity, low-wage jobs.

The main advantage of the third approach -- paying wage subsidies to workers -- is that it would lessen the likelihood of discrimination in hiring or retraining workers. The disadvantage would be that it could justify and intensify wage discrimination. For the approach to work equitably, there would need to be adequate collective bargaining, through trade unions demanding that there should be no wage discrimination against workers with disabilities.

The advantage of the fourth approach -- providing support to raise the disabled worker's productivity -- is that provision of support services could break down psychological and administrative barriers and reduce costs of recruiting disabled workers at the correct level. The disadvantages are that it may be expensive and it requires a large support service, as well as adequate equipment and trained personnel.

Even so, government authorities should promote the development of such support services, bearing in mind that the net cost would be less than it appeared. Like so many incentive policies it would have the good effect of lessening the need for compensatory state transfers later.

## Concluding points

Workers with disabilities need income security. That should take the form of benefits and social protection to facilitate and encourage mainstream economic and social activity. This means that the primary principle is that income protection relates to *need* and the extra costs of living associated with disabilities. Income protection aims at securing the same income from work for all those in comparable jobs or the same replacement income (social security transfers) as for non-disabled workers, plus compensation for the extra costs of living.

Accordingly, tax credits and income entitlements linked directly to the disability are preferable to means-tested and employment-tested benefits which lead to poverty traps and unemployment traps. Those doing part-time or low-income informal activities would lose benefits. That situation must be avoided.

Providing income security must focus first of all on the workplace itself. If there is income and employment discrimination in work, then the ability of the social security system to provide social protection out of it will be adversely affected. As such, wage discrimination must be combated. It is surely best tackled by a combination of equal rights legislation and statutory safeguards. One without the other will not do.

Beyond that, social protection must be provided by a complex structure of schemes. Modern society relies on four main types of social protection scheme -- *contributory, means-tested, discretionary and occupational*. In most countries in recent years disabled people have fared badly in terms of adequate coverage by contributory and occupational schemes. They are usually private or company-based and oriented to those with professions and higher incomes. This has reflected the high levels of unemployment and the difficulty of delivering social security benefits in the conditions of more flexible labour markets.

Increasingly, disadvantaged groups in society, most notably those with disabilities, have come to rely much more on means-tested and 'discretionary' benefits. These include allowances paid by local employment or welfare offices and allowances that employers can choose to receive on behalf of their disabled staff, or provide themselves.

If such trends persist, the income protection provided to those with disabilities will continue to be inadequate. A crucial need in Central and Eastern Europe is for organizations of disabled people to provide pressure to ensure that the erosion of benefits is reversed.

Disability benefit and compensation payment policy must be designed in such a way that it does not deter people with disabilities from seeking work. Compensation payments only as part of a vocational rehabilitation package have much to recommend them.

Finally, disability pension payments should not automatically stop or be severely reduced once the disabled person starts to earn a wage.

## **Chapter 6**

# Education, training and vocational rehabilitation

## Introduction

If you think of *incapacity* as the defining characteristic of disability, or that disability means inability, then you are already lost as a policy-maker.

Far more appropriate is an approach that focuses on the challenge of *rehabilitation*, where that refers to education and vocational training and other forms of assistance to *enable* persons with disabilities to achieve their creative and productive potential. Rehabilitation is a continuous process of improvement and regeneration, based on the rejection of ideas of fixed capacities or fixed barriers.

With education and employment-related training, there are three issues :

The *right to education*, which should be equal for everybody in society and be more than formal schooling.

The *right to vocational training*, which should relate to the development of a career or occupational profile, not be just for a specific job.

The *right to vocational rehabilitation*, which may or may not be required to assist a person with a disability to pursue a chosen occupation

Many people with disabilities would not need rehabilitation if they had adequate opportunities for education and vocational training. It is because many disabled people have been denied equal opportunities for broadly-based education that they have been pushed to the margins of the labour force.

## The right to education

Legislation for education in all Central and Eastern European countries guarantees the same right to education for all children including those with disabilities. Governments commit themselves to the principle that disabled children should be helped to achieve the highest possible education. Although the lower and upper age levels for schooling vary by country, it is compulsory for all children between the ages of six or seven years and 14 to 16 years. In

Romania there are no exceptions, but in the Czech Republic, Slovakia and Hungary, the severely mentally disabled or, as in Poland, children with multiple disabilities are excluded.

The right to medical treatment, rehabilitation and retraining is stipulated in laws throughout Central and Eastern Europe. Often, medical treatment and vocational rehabilitation are considered basic rights in the constitution. Poland and Romania have passed laws promoting employment and vocational rehabilitation for people with disabilities. Hungary still bases its vocational rehabilitation policy on laws from the previous regime. In the Czech Republic, Slovakia and Bulgaria, it is a part of social security legislation, while measures promoting employment for disabled persons through vocational rehabilitation have been incorporated into employment legislation. In the former USSR, a 1990 law on *Basic Principles of Social Security of Disabled Persons* stipulated a right to medical treatment, vocational rehabilitation and retraining. After the dissolution of the USSR, Ukraine passed its own law, but in the Russian Federation new legislation has been held up and temporarily substituted by presidential decrees.

The official attitude of Central and Eastern Europe regarding disabled persons is similar to that broadly accepted elsewhere. The aim is education, training and vocational rehabilitation of people with disabilities, to prepare for employment

and facilitate full social and economic integration. Emphasis is also on schooling and training in mainstream facilities, if the health of the disabled person allows. If it prevents -- or is perceived to prevent -- participation in mainstream schools, the person has the right to schooling and training in special establishments and training centres. If a person loses the ability to perform a job he was doing through occupational injury or disease, he has the right to be medically treated and retrained for a more suitable profession, either in a mainstream training centre or one for those with disabilities. Only if the person is considered unfit for any economic activity is he/she eligible for a full disability pension, or for another kind of income support.

The law usually specifies the body responsible for implementation of regulations on education, training and vocational rehabilitation. Basic education and training of disabled youths in both ordinary and special establishments is usually the responsibility of ministries of education, while educational facilities for mentally disabled children are often run by ministries of health, which in some countries also operate special vocational rehabilitation centres for adults. However, the latter brings a dichotomy into the vocational training and rehabilitation system, because the medical point of view dominates and makes reintegration of disabled people into the labour market very difficult.

In contrast to Western Europe, in Central and Eastern Europe, except in Poland, it is rare to have a network of vocational rehabilitation centres under the auspices of the ministry of labour, or experts within the employment service.

## Mainstream and special education of children with disabilities

There is a strong case for educating disabled children in mainstream schools. This is also the policy promoted by UNESCO. The advantages are:

It does not separate disabled youths from their able-bodied peers.

It familiarizes able-bodied people both with the problems and potential of those who have disabilities.

It helps the disabled young people to gain self-confidence.

It helps them to assess their own skills, abilities and constraints more realistically.

It is relatively cost-effective.

The educational standards are the same as for non-disabled persons.



However, in small communities where there may be only one disabled child, attendance at the local mainstream school could create a feeling of isolation and of being different from others. The able-bodied majority may not be well-disposed towards the one disabled child. The school facilities and staff may not be geared to the special needs of a sole disabled child. Special schools for children with disabilities also afford opportunities for parents to form mutual support and advisory groups, which would not be the case in mainstream schools. Special education has some advantages.

When disabled children and teenagers cannot attend regular schools they may be sent to special schools catering for their specific disability. In such schools, they receive special assistance, perhaps combined with medical treatment, aimed at obtaining schooling at the highest possible level. To help integrate such young people into society, special schools and institutions should establish contacts with normal schools and if possible send pupils at least temporarily into ordinary conditions.

For some disabled children access to mainstream education is possible only with assistance of support services and/or technical aids. In Central and Eastern Europe, most schools have architectural barriers hindering children with impaired mobility. Classes are too big for individualized teaching and schools often separate disabled children into special classes either within the school or in independent institutions.

There are examples from outside the region of how disabled children can participate effectively in regular schools if they receive additional specialized teaching, technical aids, access to school by removal of physical barriers, etc. Such examples should be studied and implemented, in part because they can be socially beneficial and may be less expensive than special schools.

The best solution may be a mix of both special education and mainstream schooling with each child's teachers and the parents selecting the most suitable programme of school work for the individual, but with emphasis on mainstream integration.

## Transition from school to work

One of the major policy failings has been a neglect of the difficult period of transition to paid employment from school, when the disabled teenager may have been assisted by specialists. It is essential to establish programmes for counselling.

In the United Kingdom, for a number of years, state-run vocational rehabilitation centres offered work preparation courses for disabled young people, particularly for those with intellectual impairments, to help bridge the gap between school-leaving and starting at work. These courses introduced the young persons to a

work environment; upgraded educational skills towards the industrial setting and helped with the difficult area of workplace relationships (e.g. having adult work mates). Emphasis was placed on timekeeping, self-discipline and conformity; often problem areas for disabled youngsters.

The recent dismantling of the state vocational rehabilitation centres in the United Kingdom has fragmented these services to the point that they are no longer universally available.

## Vocational assessment and guidance services

After completing schooling, teenagers with disabilities may be offered further education or training. The usual practice in Central and Eastern Europe has been to prepare disabled youths for occupations according to assessments by medical examination. There is usually a list of occupations considered suitable for those with certain disabilities, in which young people are offered training courses. Most 'suitable' jobs are in light industry, demanding low skills, often at risk of obsolescence. In contrast, training for new service professions, which would give disabled young people better prospects, is not widely available.

Many, with even minor disabilities, are discouraged from pursuing training for occupations traditionally considered as unsuitable, regardless of new technical aids for overcoming obstacles to such work. Most training facilities do not cater for those with disabilities, because of architectural barriers, obsolete technologies and lack of appropriate accommodation. This is even more the case for the severely disabled dependent on special aids and services. As a result, many young people medically classified as disabled either participate in training intended to prepare them for work in sheltered workplaces and workshops, or give up further education and rely on social protection.

International experience shows that formal schooling and vocational training are crucial if disabled young people are to have any chance in the mainstream labour force.

Proper vocational assessment is vital for those becoming disabled due to disease or injury. While in Central and Eastern Europe the practice has been to assess lost working capacity by medical commissions, in some countries such as Sweden, the Netherlands and Germany this is done by teams of specialists consisting of labour market experts, vocational trainers, psychologists, etc. The teams assess the disabled person's skills and aptitudes to determine whether he/she could perform the job and determine what kind of vocational rehabilitation and retraining should be offered.

Due to the high costs of such complex assessments, they are usually done by a labour market specialist within a public employment office. The disabled person is assisted in choosing a new occupation, planning a training course matched to

his/her needs and acclimatizing to a new job after the retraining has been completed. Much of the training is in the hands of NGOs or the private sector. This has the advantage of being more mainstream than some institution-based services, but lacks the benefits of multi-disciplinary assessments, quality control and the universality of a fully state-run public service.

## Mainstream vocational rehabilitation and retraining of people with disabilities

The guiding principle in vocational training and retraining should be 'mainstreaming'. The advantage of mainstream vocational training and retraining is that disabled persons do not lose contacts with normal working environments. Transition from mainstream training centres to mainstream employment is easier than after training courses undertaken in special institutions. Subsequent employment is much more likely.

Disabled people should be integrated into mainstream training programmes, with adjustment according to their individual needs and problems. Some Western European countries stimulate participation in mainstream vocational training by reserving a percentage of training places. Persons with disabilities are encouraged to enter such courses by wage subsidies, training allowances, modular courses and the availability if required of medical rehabilitation.

However, much of the established vocational training systems in CEE countries is now dysfunctional. Enterprises which run training centres have abandoned such programmes. And much of the existing training is still in areas such as heavy industries which are either becoming obsolete or are not suitable for disabled people. This puts an objective limit to the success of mainstreaming at the present phase of development. Consequently most countries in the region are pursuing a dual strategy: they set up training centres for disabled people that train them in future-oriented occupations such as in the service sector and they promote mainstream training wherever feasible and appropriate.

## Special vocational training

In the long term, specialized vocational training centres for people with disabilities combining medical treatment and job training should be reserved for those with severe disabilities or for those adjusting to a disease or injury causing permanent impairment.

One reason is that they are relatively expensive. The primary objective of such centres should be to rehabilitate the working capacity of disabled workers to a level of employability, preferably in open employment. If they cannot perform their previous occupation, they should be guided towards another job utilizing their skills and abilities. Specialized vocational centres should liaise with the regular employment services, vocational counselling centres, and with

enterprises offering sheltered workplaces or workshops. Collaboration will ensure that training courses correspond to employment opportunities and provide additional services for disabled workers in such centres.

If rehabilitation services are entirely institution-based it is likely that they will be situated only in the main centres of population where a local demand will keep them occupied. This means that people with disabilities living in provincial towns and rural areas will be denied services unless some centres offer residential courses. Residential courses inevitably separate disabled persons from their families during the rehabilitation process; to which some will respond adversely. Furthermore, it is best for placing purposes if rehabilitation and training happen in close proximity to local mainstream job vacancies. Strategies for community-based rehabilitation and training may overcome many of the problems of an otherwise centralized and urban-based service. The ideal solution is probably a mix of centre-based rehabilitation meeting the needs of the main population centres, with professional outreach support from those centres for a network of community-based services countrywide.

## On-the-job training

On-the-job training (OJT), following a vocational aptitude assessment, may assist people with disabilities in managing a new job. Some countries, however, use it to complete vocational training and as a technique for introducing disabled workers to prospective employers in open employment.

Although OJT is a policy in many countries, few schemes are in operation. Experience shows they must be promoted by subsidies for employers to cover costs of workplace adjustment. Subsidies may be needed to compensate for lower labour productivity of such workers, especially in the initial phase.

Problems may also arise over the extent of an employer's liability in the event of industrial injury to an OJT trainee. Is the trainee legally an employee of the enterprise during the training period, or not? Is the trainee fully covered by workplace regulation and insurance policies? In the interests of both the trainee and employer, issues such as these require clarification before training starts.

## Shortcomings of on-the-job training

A potential hazard of on-the-job training is that where it takes place in a neglected environment it perpetuates outdated practices. While these may be representative of the current mainstream practice they result in disabled trainees lacking the additional edge of updated skills and techniques to offer potential employers. Furthermore, with few employers willing to accommodate disabled trainees for on-the-job experience, placing officers will often accept any offer. In so doing they may be prepared to overlook the quality of training practised in the enterprise or the adequacy of health and safety measures in place.

Disabled people deserve the same quality of training and opportunity as trainees without disability.

## Policy options in vocational rehabilitation and training

In designing vocational rehabilitation and skill training programmes for people with disabilities, governments need to decide several key policy issues. Principal among these will be the extent of their disability target groups, whether or not they aim for a comprehensive service open to all, whether the service should be concentrated in the main centres of population or extended in some way to small communities and rural areas, and whether it is to be an entirely state-run, state-funded service or involve the voluntary and private sectors. Other issues will be the strength of commitment to developing a national labour force in which people with disabilities participate in proportion to their numbers, commitment to the concept of disabled people in *mainstream* vocational training and jobs and, for those who are unsuited to mainstream participation, the nature and extent of alternative forms of vocational resettlement.

The shape and cost of the service will depend upon decisions taken over these policy issues.

Problems arise when policy conviction is uncertain. In most Western European countries, rehabilitation services flourished post-1945 when there were many 'deserving' disabled people as a result of the war and there was a labour shortage. The situation gave rise to a policy for an extensive national provision of rehabilitation and training. By the 1970s the demand for labour declined and the ageing war-disabled population was featuring less in the labour market. There was then some loss of confidence in the policy, which left the rehabilitation services vulnerable. Other countries, such as Germany and France, maintained a broad political consensus that disabled people should benefit from active labour market policies and they reinforced their statutory commitment and strengthened rehabilitation and support services.

By and large, most countries in Western Europe have based their policies on the principles laid down in the various international standards -- *ILO Convention 159* and *Recommendations 99* and *168*; *Council of Europe Recommendation R (92) 6*. Accordingly, active labour market policies and rehabilitation measures must seek to cater for all the disabled people within a population, with the determining factor being their needs and abilities, not the origins of the disability such as a war disablement or an occupational accident. The demand for labour and the state of the national economy will influence massively the degree of difficulty in getting people with disabilities into employment, but must not bring the principle into question that jobs should be available to all.

Many countries now see a role for voluntary and NGO sector involvement in vocational rehabilitation. Some look increasingly to the private sector to provide

vocational training, with the governmental role being limited to ensuring continuity and quality of service. There is clearly some mainstreaming advantage in using the private sector to train people with disabilities: the range of trades/skills will often be wider than that on offer in training institutions, the techniques will be those currently in use by industry, the skills and experience of the instructors will not become outdated (as they often do with training centre staff), employers will see for themselves the potential of disabled workers, disabled trainees who do well during training are likely to be offered permanent employment, and the able-bodied staff of the enterprises will modify their attitudes to having disabled colleagues.

These policy options all have budgetary implications. Involvement of private entrepreneurs may reduce the need for government funding, but it risks concentrating rehabilitation on those with the least disabling conditions and with the greatest number of work years ahead of them. The older, the more severely disabled persons and those with intellectual or psychiatric impairments may suffer from being less cost-effective propositions for the private sector.

As has been stressed earlier in this guide, a selective placement service, credible in the eyes both of disabled jobseekers *and* employers, is essential for maximizing the penetration of the mainstream labour market. There will always be some disabled people whose work capacity falls short of that required for mainstream vacancies. For them, some form of sheltered or supported work will be the option. Policy on sheltered work needs to be as clearly defined and sharp-edged as for rehabilitation to the mainstream, if those who use the services are to be best valued and properly rewarded.

Success in mainstreaming disabled people into work will depend to a great degree on where responsibility for the execution of the policy is based. In broad terms, people who are in employment should not be sick people. They should normally not be suffering from a medical condition currently requiring further treatment; for this same reason able-bodied employees who are ill absent themselves from their jobs until they are well. Disabled people who are seeking work usually have achieved a level of health stability. They may need some continuing therapy, they may need some self-administered medication, just as do many of the able-bodied working population, *but they are not ill*. Therefore, vocational rehabilitation is the proper concern of employment: not of health, or of social welfare.

An exception to this rule are people with chronic health problems who nevertheless want to work, if only on a part-time basis. To this group belong people with cardiac conditions, diabetics, chronic high blood pressure, lower back pain, emotional disorders or psychiatric conditions. The life of these people is often divided up between being consumers of health services and being workers. While their specific needs may have to be accommodated at the workplace, they are nevertheless workers and not patients.

As was stated in Chapter 3 of this guide:

... the objective of a rehabilitation programme must be to get disabled people into meaningful employment, satisfying to both them and their employers, as expeditiously as possible...

There will often be a need for liaison with both the medical and social welfare authorities, but the responsibility for vocational rehabilitation policy and its execution should be that of a government's mainstream labour and employment department. Where ministries of social protection or health are still charged with the overall responsibility for disability affairs and vocational rehabilitation in particular, they should seek close cooperation with the labour and employment authorities.

## **Chapter 7**

# Consideration of quota laws and anti-discrimination legislation

## Quota and quota/levy schemes

Quota schemes for disabled employees are defined in the ILO glossary of rehabilitation terms as:

The compulsion placed on every employer, or those having a fixed number of employees, to employ a minimum or percentage of disabled persons. In some cases there is also protection against loss of employment.

For many years, governments in Europe and elsewhere have attempted to promote the employment of disabled people through demanding that all enterprises, other than the very smallest of them, accept an agreed percentage of disabled workers. This strategy has attracted policy-makers, who have sometimes ignored its inherent shortcomings in the belief that the mere passage of a regulation is enough to ensure success.

However, in many countries the positive impact of quota schemes has been negligible as the schemes have often proved difficult and expensive to administer and have led to a neglect of other measures, in particular those that provide disabled people with labour market qualifications.

Some of the problems relate to the mechanics of enforcement, some to the lack of knowledge of the schemes and of the need for registration by disabled people; others to the resentment of employers and the unflattering image that quota enforcement may create of disabled workers.

Some countries, the United Kingdom for example, rarely enforced the law, thus accepting the relative impotence of their quota legislation. Other countries, such as Germany and France, favoured quotas but refined them with the provision of a compensatory levy to be paid by employers not achieving quota targets; the proceeds of the levies being used to finance a range of incentives for employers and to boost the supply of training places and job accommodation for disabled people.

Thus the refinement of the concept of quota, from a straightforward command that enterprises employ a specified percentage of disabled workers, to a quota/levy system, yields resources for promotional and developmental initiatives. Quota/levy schemes impose an obligation on employers to do something towards the employment of disabled people, even if as a financial contribution towards service development. The imposition of levies should not be seen as punishment, or fines for non-compliance, but as an alternative form of contribution,

putting all employers on an equal footing. However, the burden of levy should be set at a high enough level to ensure that it is not always the more attractive option for employers.

In Germany the revenue from the compensatory levy was around DM 417 million in 1989. In France the national fund 'AGEFIPH' reported an annual turnover in 1994 of FF 1,6 billion. This revenue is used primarily for the engagement and employment of severely disabled people, which means that the greater part of it eventually returns to employers. Even employers who do not have enough employees to be covered by the law but still employ severely disabled workers may also benefit from the levy. In Germany, a 55-per cent share goes to the main regional welfare fund where it is used to boost the supply of jobs and training places for severely disabled people, in payments for improvements to working environments and other measures for the integration of severely disabled people. The other 45 per cent goes to the Compensation Fund of the Federal Ministry for Labour and Social Affairs to promote nationwide measures for the integration of severely disabled persons in employment, trade and society. The Compensation Fund allocates to the Federal Employment Office money for special promotion and engagement of severely disabled people. It also promotes nationwide model projects. In France some 50 per cent of the revenue goes back to employers in the form of wage subsidies.

The funds available to the State arising from levy payments should always be regarded as *additional* resources and not as a substitute for state provision.

In any country with quota or quota/levy legislation, it is of the utmost importance to clearly define who may, and who may not, be considered as disabled within the terms of the law and so enjoy the protection of it. Employers need to know which of their workers they can count as being disabled for quota purposes.



The effect of this type of legislation is often to produce much higher levels of disability prevalence among the working-age population than might be determined by other measures. People who would normally shrink from applying for a disability status, for fear that it may stigmatize them and hinder their employment prospects, see clear advantages from qualifying under a quota/levy scheme. Similarly employers, recognizing the need to meet their quota obligations, may pressurize workers who do not fall within the 'classical' image of a disabled person, particularly those with hidden disabilities, to register as disabled. So quota/levy schemes raise for policymakers the difficult issues of the definition and the classification of disabilities.

The promotion of quota/levy systems is the official policy of the European Union despite the negative experience in the United Kingdom. However, in all cases where quota/levy systems are in force, they are only one element in a more comprehensive package of policies and measures.

Countries in Central and Eastern Europe should approach this issue with utmost care. Where they are conceptionally a relic of the old command system, quota laws will fail to impress the private employers. As a measure of state social policy that assigns responsibilities to employers in full respect of their need to be competitive, quotas may have their legitimate place, provided the levy income is used to make the disabled workers truly competitive.

## Anti-discrimination legislation

Many advocates for disabled people, particularly in thrusting for greater participation in mainstream education, training and employment, see anti-discrimination legislation as the most promising way to achieve their goals. As discussed in Chapter 2 of this guide, the United States, Canada and Australia all have now moved firmly in the anti-discrimination direction. We can expect some Western European countries to follow. For example the United Kingdom parliament is debating the issue (early 1995) and will almost certainly pass legislation that will formally end many provisions dating from the 1944 act, including quota schemes and designated reserved occupations for registered disabled persons. Germany, while set to continue its active labour market policy approaches, included a provision in its Constitution (in 1994) banning discrimination against disabled people.

Foremost among anti-discrimination legislation must be the *Americans with Disabilities Act 1990* (ADA) that deals comprehensively with the rights of disabled people. Earlier United States legislation, the *1973 Rehabilitation Act*, formed the basis for the provision and increase of services to disabled people in the workforce. It also dealt with the rights of disabled people in the Federal workforce. The 1973 Act was largely limited to the concerns of disabled people in connection with federal contracts. The ADA aims to rectify some of these shortcomings by extending to the private sector the *illegality of employment*

*discrimination against disabled people.* Under the provisions of the Act employers must adopt unbiased recruitment and promotion criteria and make 'reasonable accommodation' for the known limitations of disabled individuals, unless this will cause undue hardship. Here is, enshrined in law, the concept that providing a job for a disabled person is not enough; special provisions that adjust the working environment to the needs of disabled workers are equally part of the civil rights being recognized.

The Act seeks to establish non-discriminatory selection criteria both in the design of employment selection procedures and, where used, in tests which must reflect the applicant's aptitudes and skills rather than the applicant's impairments. Various types of discrimination are prohibited by the Act such as segregating or classifying individuals, entering into discriminatory contractual relationships, using methods that perpetuate discrimination, discriminating against those people in relationships with disabled people, and by not making reasonable accommodation. The Act expects employers to ask disabled employees, what it is that is needed in terms of accommodation. The ADA defines a number of modifications that can be considered as 'reasonable accommodation' -- although the reasonableness will depend on the facts of each case.

So the Act recognizes, and enshrines in law, that because disabled people are individual and unique, the measures to accommodate them in employment must also be individualized.

This enlightened view of disabled peoples' needs takes us a long way further than the token ramp and the slightly wider toilet space offered to accommodate wheelchair users in public buildings, shops and workplaces.

The ADA specifies the remedies and procedures available to any person alleging discrimination on the basis of disability in violation of any of the provisions of the act. They are, of necessity, complex, involving an Equal Employment Opportunities Commission and, ultimately, the courts. The burden is left to disabled people and those who work with them to become familiar with the Act and how to use it. The danger is that the educated, the well-connected and those with financial resources will fare disproportionately better under a system which throws the onus of proof and prosecution onto the disabled individual. Yet those whom the system fails may find that their former safety nets of positive discrimination and affirmative action have been dismantled.

Quota/levy systems and anti-discrimination legislation are often depicted as alternative approaches. It is more likely that they are two sides of the same coin. Active labour market policies are strategies that have been developed to address the issue of factual employment discrimination of disabled people. The obligation not to discriminate and the obligation to employ a certain percentage of disabled people both interfere with the freedom of the employer to choose his workforce. The difference is that the European countries generally see the State as the

authority that interferes to ensure distributive justice, whereas the American concept is that of a State that has to ensure only fair rules of the game.

The aim of most Western European policies in favour of disabled people is to enable them first to compete on the labour market and then to ensure by law that opportunities to apply these competencies are available. The Americans by contrast leave it to the individual how to obtain the necessary labour market qualifications. The Anti-Discrimination Act only comes into force when equally qualified disabled candidates or workers are rejected or discriminated against on account of their disability. The large majority of disabled people, being less educated or qualified than the average non-disabled peer, will not benefit from this law. Also the fear is that anti-discrimination legislation will lead to compensation payments rather than to increased employment. If this were confirmed by data, the Western European model of quota/levy legislation would compare favourably with the American model.

The lesson to be learned for CEE countries from this comparison of systems is that clarity must be established first concerning the overall social policy concepts of the State and the primary objective of its regulations. The choice is likely to be between two different social policy models: on the one hand a more authoritarian model that uses the quota approach to distribute people who are considered a burden on the State to enterprises and the community; and on the other hand, a welfare policy model that is genuinely interested in improving the living conditions of disabled people. This model will favour a combination of rehabilitation and quota/levy systems and promote their citizens' rights.

## **Chapter 8**

# Forms of sheltered employment: last stop or first step?

## Introduction

In most countries, provision is made for sheltered workplaces and jobs for severely disabled workers. The issue is whether the principal purpose of sheltered forms of employment should be short-term, as a means of acclimatizing workers to employment, or long-term, as the means of giving activity to those who cannot be placed in mainstream employment. Modern thinking is sceptical about their potential and desirability.

*ILO Recommendation No. 99 of 1955, on the vocational rehabilitation of disabled people*, covers sheltered employment in Articles 32 to 35. These state that government should develop arrangements for the training and employment of those disabled people who cannot be provided with mainstream employment. The Recommendation states that measures should include establishment of

sheltered workshops and other special measures for disabled people who cannot travel to and from work regularly.

Some European countries had sheltered workshops before 1955. After the adoption of *ILO Recommendation No. 99*, Western European countries passed legislation to provide a legal framework, and during the 1960s and 1970s the number of sheltered workplaces grew.

In 1986, the Commission of the European Communities (EC) passed a Recommendation on the employment of people with disabilities, including sheltered employment. This states that all member states should aim to provide paid 'sheltered' jobs to all disabled workers who cannot be integrated into the open labour market.

In Central and Eastern Europe, sheltered employment has been a particularly widespread form of employment for disabled people. Its role was codified in special laws or regulations on employment of disabled persons. They cover two types of employment -- sheltered jobs in ordinary enterprises, and sheltered workshops or enterprises in which most jobs are held by disabled workers. Mostly, such workshops and enterprises have been established and operated by organizations of people with disabilities and partly or fully funded by the government.

## Definitions and coverage

The provision of sheltered work and the people to whom it is made available vary considerably. Three sets of distinctions should be made in clarifying definitions of sheltered work.

(i) Distinctions should be made between sheltered enterprises, sheltered workplaces within regular enterprises, and sheltered jobs reserved for disabled workers.

(ii) In France, Ireland, Italy, Luxembourg, Spain and the United Kingdom, a distinction is made between *sheltered employment*, in which disabled workers carry out productive activity for which they are paid a wage, and other forms of sheltered work, which -- as in France -- might be called 'support-through-work', which are in effect a social service with the aim of giving the disabled person something to do rather than an activity expected to result in a commercially viable product or service.

(iii) There are variations in the range of people designated to be given access to sheltered workplaces. In some countries, sheltered jobs are intended for all people who cannot find work in open employment in a normal enterprise. In others, access is limited to those whose productive capacity falls below a certain

minimum. People whose perceived capacities enable them to be fully productive, are expected to seek work in ordinary enterprises .

Differences in definition and coverage are important when making comparisons between countries and interpreting reports or data, and may distort the picture.

In countries of Central and Eastern Europe, the term 'sheltered' employment is not common. They were state enterprises, cooperatives or factories managed on behalf of the State by disability organizations. In an economic environment where practically all enterprises were 'sheltered' from market principles and practices the distinction, when compared with regular enterprises, was gradual rather than one of principle. The main distinctive feature was that enterprises employing a certain number of disabled workers had the right to tax breaks (the principle of compensating for a disadvantage).

With the transition to a market economy, the need for defining certain enterprises as 'sheltered enterprises' arises from the first time. Progression in unemployment on the open labour market as well as reductions in pension income give enterprises for disabled people a buffer function which is worth preserving during the difficult period of transition.

## Sheltered enterprises

Sheltered enterprises are probably the most common way of providing sheltered workplaces. They are usually for particular categories of disabled people, such as the blind, mentally disabled or those with mobility disorders. They may be run by public organizations, such as local or central government authorities, by cooperatives or by NGOs.

There is often government support in the form of subsidies or other financing, although many sheltered enterprises receive no public funds. The extent to which NGOs have developed and the kind of NGOs varies greatly by country, depending on cultural background as much as anything else.

In Central and Eastern Europe, one can now distinguish four types of sheltered enterprise:

- (i) Enterprises run by and for members of associations or societies of disabled persons, usually a particular disability, such as blindness, deafness or physical disability;
- (ii) Enterprises owned and managed by the State, providing jobs for particular groups of disabled persons;
- (iii) Enterprises that are private companies or cooperatives providing sheltered employment, subsidized by government;

(iv) Enterprises, usually state-owned, in which specific workshops or establishments are reserved for disabled workers, often as an expression of the enterprise's social policy function.

Sheltered enterprises always aim to provide paid work. They may also have vocational rehabilitation functions -- defined in *ILO Recommendation No.99* as including work adaptation, training, vocational guidance and work placement. If so, they are supposed to meet a second objective, that of helping people to move into mainstream employment.

The main purpose of sheltered enterprises is that they offer work to those disabled persons least able to cope with the demands of open employment and to offer rehabilitation to those capable of making the transition to the open labour market. In CEE countries, that distinction is less relevant. Irrespective of their individual abilities, disabled workers work there because there are no other jobs. Consequently, enterprises for disabled workers will continue to have a place in the array of policies, particularly in the immediate future in Central and Eastern Europe where pragmatic considerations will be paramount. They should be regarded as a secondary instrument, not one on which the whole policy strategy is based.

Throughout Central and Eastern Europe, sheltered workshops are faced with the need to become commercially competitive. They have lacked the funds for investment, so fall behind private sector competitors. Whatever their merits or demerits as instruments for promoting employment of disabled workers, sheltered enterprises are faced with new market-related difficulties. Should they be subsidized or made part of the non-profit sector? Should their numbers be reduced? Although sheltered workshops usually claim that they exist to help severely disabled people achieve open employment, in fact very few of their workers make the transition. There are many reasons for this, of which the most important are :

(i) Disabled people are often afraid to move into the mainstream labour market in case they fail in open employment and then have problems returning to sheltered work;

(ii) Disabled people may lose benefit entitlements acquired from working in the sheltered enterprise;

(iii) Workshop managers are reluctant to lose workers whose skills or productivity have improved to the extent that they have become important to the workshop and to its profits or income;

(iv) Workshop managers may have target employment levels to reach, and thus have an interest in keeping such workers, whatever their efficiency;

(v) High and rising unemployment encourage firms to recruit those who have not been in sheltered employment.

One consequence of the low rate of transition to mainstream employment is that sheltered enterprises tend to have high proportions of older workers, whose disabilities are partly related to age. This creates a working environment of low productivity, in which the enterprise increasingly plays a social rather than labour market or productive role.

Although most workers who enter sheltered enterprises remain there, their wages are often very low. In Belgium, for example, most workers receive about half the minimum wage, while in Denmark most receive less than 15 per cent of the minimum wage, although many receive disability benefit as well. In Central and Eastern Europe, workers in sheltered jobs have also been receiving extremely low wages.

This raises the question: how can policies be improved to avoid poverty in employment and the institutionalized relegation of disabled workers to the poorest of the working poor?

## Sheltered jobs in regular enterprises

Encouraging people with severe disabilities to move from sheltered work into employment in regular enterprises is a policy aim in many countries. Commitment to this principle is also included in section 33 of *ILO Recommendation No. 99*. The main ways of pursuing that goal are:

**Enclaves:** Arrangements made by companies, in which groups of disabled people work together in a normal enterprise, usually in a separate section of workers. They receive the normal rates of pay often with a subsidy paid by the State or other authorities. They are found in France, Ireland, Italy, the Netherlands and Portugal as well as in most CEE countries although, in this latter case, they are now disappearing.

**Sheltered placements:** Arrangements found mainly in Denmark and the United Kingdom, and providing jobs for individual disabled workers working in ordinary enterprises alongside other workers. The disabled worker receives the normal wage, which includes a state subsidy to compensate for the worker's lower output.

**Supported employment:** This approach, which began in North America, is now increasingly popular in Western Europe as well. It is a flexible system that aims to help people with severe disabilities into open employment by offering practical help both to the employer and the disabled worker. The help usually involves the appointment of a support worker to offer appropriate help within the enterprise for a short period.

Other strategies can open up work to disabled workers in sheltered enterprises. For some, special production technology may be the answer. For others, it may be necessary to adapt the workplace, modify the equipment or introduce more flexible working practices, such as shorter working time, longer rest breaks or time off for medical treatment. Allowing disabled workers to arrive and depart outside the main rush period, perhaps by as little as 30 minutes, may be the only flexibility required.

## Integrated cooperatives

In part because of the long tradition of cooperatives in CEE, one particular form of sheltered enterprise deserves separate mention. This is the 'integrated cooperative' developed in Italy in recent years and first founded in 1974. These are essentially enterprises run on cooperative principles for and by groups of disabled persons, mainly for former psychiatric patients at large hospitals, often with others who are not disabled. They were pioneered to demonstrate that disabled and socially disadvantaged people can be reliable, productive and disciplined workers who can become fully self-reliant.

Such cooperatives are intended to be productive marketing enterprises, thus enabling disabled persons to interact with many others inside and outside the enterprise. Such cooperatives aim to increase the autonomy, power and responsibility of the disabled workforce. Two types of cooperative have emerged, one of which is primarily a means of improving vocational skills, the other being primarily an integrated production cooperative intended to provide regular full-time employment. Their record is mixed. Some have collapsed, many have survived and some have become self-financing.

## Other initiatives

There are other options that come within the concept of sheltered employment. The most widespread is subsidized **homeworking**, which is promoted in many countries. More recently, telework has become a lucrative possibility for severely disabled workers with competent skills. The spread of information technology and satellite communications has encouraged the growth in some countries of 'technology cottages', as in Ireland, where people in remote rural communities work on word and data processing for companies based in Dublin, or even in the United States.

A second option is the **transitional employment** model, in which an organization, usually an NGO helping people with a particular disability, sets up contracts with local enterprises to supply labour. The NGO meets the contract by offering jobs to the disabled members of its group. If at any time a particular individual does not feel able to work another can take his place, but the person who is unable to go to work does not have the stigma of being dismissed by an



employer. The approach has been used most in the United States with people handicapped by psychiatric disorders.

A third option is the promotion of **sheltered small-scale business**, in which special facilities, subsidies and loans are provided. This policy in the United States is operated by the Small Business Administration, in a scheme known as Handicapped Assistance Loans, and provides 'seed money' to those setting up a business employing disabled workers. The conditions are that 75 per cent or more of the working hours must be supplied by disabled persons and there must be evidence that the disabled persons involved could not compete on even terms with other firms.

This sort of scheme could be difficult to operate in Central and Eastern European conditions, and raises questions about how to monitor its operation and about substitution and 'deadweight' effects, i.e. the indirect impact on other enterprises and the possibility that the loans might go mainly to those who least need them. Nevertheless, it is a desirable policy objective to encourage disabled persons capable of doing so to set up independent businesses.

## Advantages and shortcomings of sheltered employment

Sheltered employment offers advantages, which vary according to the type of sheltered employment.

In most cases, for the disabled worker, sheltered work may provide the only realistic chance to be part of the workforce and to earn a wage. For the regular enterprise in which there are sheltered jobs or workplaces, it offers the possibility of obtaining a trained and willing worker supported by a subsidy if the employee has relatively low productivity. For the government, there is scope for reducing the burden on public expenditure on social security payments, by enabling people to take up productive paid work. Even if the government still has to pay a sheltered work subsidy there may be scope for reducing public expenditure.

As stressed in Chapter 7, in assessing the social and policy value of sheltered employment, it is essential to integrate such forms of work with rehabilitation, anti-discrimination and employment promotion measures. Although mainstreaming is the preferred option, it is still important to preserve decent forms of sheltered employment and to make them a source of dignified activity and a transition mechanism for those on the margins of the labour market.

## Chapter 9

# Policy development and administration

## Introduction

Earlier chapters have discussed policy areas and specific services. This chapter deals with the development of policy and administrative systems and with the roles of employer organizations, trade unions and NGOs. There are wide variations in experience and practice between countries, which in part reflect historical and cultural differences. Even with such differences there is benefit in looking at how other countries organize and manage the process.

## Responsibilities in the public sphere

There is no single model for the development of policy and administration. The pattern of responsibilities varies widely, so that in some countries responsibility lies with the ministry of labour and in others with ministries of health or social affairs or welfare. There are a few countries, such as France, Germany and the Czech Republic, where primary responsibility for policy and administration lies with a single ministry, although other ministries may also have an interest.

It is more common, however, to find that several ministries have responsibility for particular policy areas and administration, while in others both policy and administrative responsibilities are divided between national bodies and regional or provincial ones. There are often good administrative, legal or democratic reasons for such divisions.

## Tripartite responsibility

There is less evidence of tripartite responsibility either for policy or administration. A tripartite approach exists in the Netherlands and Sweden. In the Netherlands, the central employers' federations, the trade union federations and government are jointly responsible for policy-making through a central labour board and 28 regional employment boards that oversee the employment service. In Sweden, a national labour market board is responsible for policy and 24 county labour market boards for county-level policy. These boards have representation from employer and trade union organizations, among others. Denmark encourages cooperation between worker and employer organizations on disability and employment issues.

In some Central and Eastern European countries, tripartite national councils (for economic and social affairs, reconciliation of interests, etc.) are responsible for approving government economic and social policies during the transition in order to achieve social consensus. In Bulgaria and Hungary, employment policies and programmes including disability issues constitute a substantial part of such discussion. In other countries, employment programmes are within the responsibility of governments.

## Roles of employers' organizations

In Central and Eastern European countries, until recently there has been little by way of employer federations. For the 80-odd national-level such organizations that have emerged following the changes, there has been little to help them orient themselves and little support from the others of their supposed partners in establishing industrial relations, social dialogue and tripartite consultations. The main reason for this is lack of references, uncertainty as to their aspirations and proper place in the new order of things, and the difficulties encountered in getting pluralistic institutional infrastructures in place. Most of the new employers' organizations are still at an early stage of development, largely still searching for their proper role, and most have few if any formal links with policy-making and administration.

Before the recent changes, state enterprises were managed directly by ministries or other government agencies. Plant level management had little power to establish policy, which was influenced by political considerations rather than enterprise economics. In many countries of the region, that is still the case. It is a factor delaying the establishment of a properly functioning labour market where industrial relations would be conducted and developed by independent, accountable parties. Another factor is that with the erosion of administrative control over managements, implementation of quota regulations and the monitoring of them are weakening. Incentives for the employment of disabled persons are not developing rapidly enough to offset the problems of transition.

In Western European countries, the situation has been varied. Employer confederations -- national organizations involving many branches of the economy -- in most countries hold regular discussions with governments and the responsible authorities on policy issues. In Finland, the Netherlands, and Sweden they take a formal or *advisory* part in policy-making and/or administration in various tripartite structures that involve trade union confederations and the government.

The International Organization of Employers, IOE, represents employers' interests -- including the position of disabled persons in the labour market -- in relation to ILO and other intergovernmental bodies. The IOE has six member organizations in Central and Eastern Europe: Croatia, the Czech Republic, Hungary, Latvia, Poland and Slovakia.

For European countries, the Union of Industrial and Employers' Confederations of Europe (UNICE), represents employer interests in relation to the European Commission, Council, Parliament and Economic and Social Committee where policy is developed and implemented. UNICE has 35 member confederations from 26 countries, including one each from the Czech Republic, Poland and Slovakia.

The consultative position of employers and trade unions in the EU has been strengthened in the Maastricht Treaty especially in the areas of employment and social policy, including questions of relevance for disabled persons. The Economic and Social Committee and the various parliamentary bodies pay close attention to the labour market organizations.

It is in the interest of employers to promote the employment of persons with disabilities, and to grant such persons equal opportunities to seek employment for which they qualify. How the individual employer will act depends largely on attitudes towards disability, what is demanded by the disabled persons, and what terms and conditions for such employment are legislated or agreed with trade unions. An important factor that influences the employers' decision is what public financing exists, as well as what public support is available to assist a disabled person practically, to make adjustments to his/her work station, home or transport arrangements, etc.

Employer organizations may also adopt and disseminate policies. One of the most structured initiatives is that of Employers' Forum on Disability in United Kingdom. They issue publications to assist employers with various aspects of employing disabled persons. The Forum's Employers' Agenda on Disability was published in January 1992, and within one year it had been adopted by over 50 organizations (see box).

## Roles of trade union organizations

Before the changes in Central and Eastern European countries, trade unions were an integral part of the power structure, and were expected to support and complement the political control of production and workforce. Industrial relations had a role as a mechanism of justifying the policies established by the Communist Party. At plant level, the management, party committee and trade union committee represented three facets of a unified block of power. Each maintained their contact with the national structure-- the relevant ministry, party and branch trade union, respectively. In cases of dispute, the party had supreme power. So, a policy on employment of disabled persons was adopted at the centre and it was left to regional and local representatives to implement it.

### **Employers' Agenda on Disability**

#### **1. Equal opportunities policy and procedures statement**

The employment of people with disabilities will form an integral part of all equal opportunities policies and practices.

#### **2. Staff training and disability awareness**

The company will take specific steps to raise awareness of disability throughout the organization, particularly targeting all staff involved in recruitment and

selection processes.

### **3. The working environment**

The company will take all reasonable steps to ensure that the working environment does not prevent disabled people from taking up positions for which they are suitably qualified.

### **4. Recruitment**

The company will review and develop recruitment procedures which encourage application from and the employment of people with disabilities.

### **5. Career development**

The company will take specific steps to ensure that disabled people have the same opportunity as other staff to develop their full potential within the organization.

### **6. Retention, retraining and redeployment**

Any employees who become disabled will be given the fullest support to maintain or return to a role appropriate to their experience and abilities within the company.

### **7. Training and work experience**

The company will ensure that disabled people are involved in work experience, training and education/industry links.

### **8. People with disabilities in the wider community**

The company will recognize and respond to disabled people as customers, suppliers, shareholders and members of the community at large.

### **9. Involvement of disabled people**

When implementing the ten points for action, the company will encourage the participation of disabled employees to ensure that, wherever possible, employment practices recognize and meet their needs.

### **10. Monitoring performance**

The company will monitor its progress in implementing the key points. There will be an annual audit of performance received at board level. Achievements and objectives will be published to employees and in the UK annual report.

The removal of the Communist Party's formal influence at the plant level has led to a reduced structure of decision-making. It is much more difficult to use local representatives of national organizations to implement policy. This is especially true for trade unions. Unions must re-establish their credibility as representatives of the interests of workers who pay affiliation fees to them and who elect their local representatives. This is a fundamental change in industrial relations, and it will take years to be completed. It should be understood that trade unions' role in support of persons with disabilities is affected by this change, and that unions can no longer be expected to be responsible for the execution of personnel policies. On the other hand, managers of state enterprises have not yet established a position that a Western enterprise manager can expect to have.

At national level, unions that are recognized as 'inheritors' of the old trade unions have been transformed into bodies representing interests of workers both in the discussion of new economic and social policies and measures and in collective bargaining. The degree and speed of this transformation vary greatly within the region. These organizations have been able to maintain membership levels that are still much higher than the Western European average. That is in several cases supported by the fact that unions still distribute some social benefits, such as places in rehabilitation institutions. This practice is decreasing, and the real estate and other assets used for those purposes are being turned over to the government. It is not always certain that the activity will continue in the hands of the new owner.

The reformed or reforming trade unions are organized in national branch federations that form national confederations. As a rule, confederations have no responsibility for employment policies and social measures for disabled workers. However, some trade unions regard care for disabled workers more as social protection than employment promotion.

Since the recent changes, and in many cases as an essential part of them, new trade union movements have been created, often as 'alternative' bodies to the 'reforming' unions. With a couple of important exceptions, the new unions have not yet been able to build a substantial membership base in most workplaces in their countries. Their impact and importance are in political and social change, introducing new ideas in the policy debate, and forcing the older organizations to reform.

Western European countries have greatly varying trade union structures. In some countries there are separate trade union confederations or centres according to religious or political beliefs or ethnic background. In most countries, they are consulted on policy issues and legislation, and in Sweden, Finland and the Netherlands they have a formal part in policy-making and administration. Mechanisms and traditions of industrial relations are quite different, and no one model exists.

In their industrial relations activities, trade unions often see their role as representatives of members' interests at the workplace with little or no specific regard to the disabilities of colleagues. However, in their roles as bodies of mutual solidarity, there is a sense of caring for all. At least in Finland, trade unions have regular contact with NGOs concerned with disability. Their campaigns for social legislation or changes in urban planning are publicized through the trade union press and other communication channels.

Internationally, nearly all Western European trade union confederations belong to the ICFTU, the International Confederation of Free Trade Unions, or WCL, the World Confederation of Labour (with a Christian democratic orientation). ICFTU has members in the Czech Republic, Slovakia, Poland, Romania and Hungary, while WCL has members in Poland, Hungary and Romania.

ETUC, the European Trade Union Confederation, is consulted by the Commission as employers. It represents trade union interests in all relevant bodies of the European Union and EFTA. Its Cooperation Forum includes many trade union centres in Central and Eastern European countries, and several of them have an observer status in ETUC.

## Roles of non-governmental organizations

Before 1989, the NGOs most active in the disability field in Central and Eastern Europe were those for blind people and deaf people. Since 1989, there has been a growth in the number and range of organizations with, for example, the Czech Republic reporting 60 new NGOs representing the interests of disabled people. In Ukraine, various organizations have been established and joined to form the Public Organization of Invalids to assert the rights of disabled people. The latest organization in the region is the All-Russia Society of Disabled Persons that has some 1.3 million members. Some of the NGOs have worked with public bodies in providing sheltered work, rehabilitation and guidance and family support.

There are many NGOs in Western countries, some for particular disabilities, some for all disabilities, others acting as umbrella organizations. They undertake a variety of roles. Most seek to influence public authorities, and to act as channels for their members' interests. Some provide help and services either independently or under contracts from public bodies. There are also some militant, campaigning NGOs that concentrate on advocacy, sometimes in a narrow area of policy.

## Conclusion

There is great diversity in ways in which responsibility for policy development and administration is allocated. The position in Central and Eastern European countries for employers, trade union organizations and NGOs is evolving and the

number and range of organizations is growing. They have an important role to play as path-finders and as sources of expertise on good planning and practice.

Elsewhere, they have often played a prominent part in policy advice and service development, usually as channels for interest representation and through providing services based on consultative arrangements with government.

Reforming industrial relations between employers and trade unions will fundamentally change the decision-making structure at work-places. Both parties should develop sensitivity and appreciation for workers with disabilities. Disability should be treated in the labour market as an equal rights and solidarity issue.

International cooperation with trade unions, employers' organizations and NGOs of people with disabilities should focus on improving their capacity for independent policy-making, information and work.

Occupational *safety and health* legislation, implementation, research and training should note this in dealing with issues like ergonomics, chemical and other hazardous substances, platforms and other structures, machine design and vehicles. Safety representatives and committees, where they exist, should be trained to be able to advocate sensitivity towards the needs of persons with disabilities.

## **Chapter 10**

# Images and information

## Images

In the world of disability since the UN's 1981 International Year of Disabled Persons, there has been a revolution in the terminology used and the images projected. Throughout the text of this guide the individuality of people with disabilities is stressed. This is epitomized by dropping the generic term 'the disabled', in favour of 'disabled persons', or 'disabled people', or 'people with disabilities'. There have been many other changes, for example it is no longer acceptable to talk of people as being 'wheelchair-bound', or being 'confined to a wheelchair'; instead 'wheelchair user' is the acceptable, more dynamic, representation. To some, these will seem small, pedantic, differences in tone rather than of policy substance. But they are important indicators of a transition, from being passive recipients of alms and aid, to positively managing life in the mainstream, which many people with disabilities are now doing, and to which in future the majority will naturally aspire.

The growth of NGOs of people with disabilities, largely since 1981, is both part of this transition and part its cause. Disabled people the world over are taking more



responsibility for the policy agenda. Governments, politicians, employers, trade unions, charities, national and international agencies concerned with disability issues, and the public at large, are having to come to terms with the new image of disabled people and the expectations which accompany it.

Empowered through increasing participation in mainstream education, training and employment, disabled people in many countries are becoming more active as producers, taxpayers and customers -- wanting and expecting the same quality of goods and services as the rest of society. As the place in society for people with disabilities improves and the perception they have of themselves develops, publicity and information materials must reflect these changes.

We are probably stuck with the wheelchair symbol as the international sign for disability access. It is a strong, easily recognized image and has found favour with the public; to change it now would be counter-productive. It is, however, unfortunate that it highlights a minority disability group and, to that extent, may mislead the general public as to the range and complexity of the total disability scene. It is, therefore, all the more important for the nature and needs of other disability groups to be well and accurately presented in materials.

Even the picture projected by voluntary charitable organizations in support of particular disability groups is often at odds with the way disabled people wish to be regarded. The relationship between the two is complex. In most countries with free-market economies a large part of funding to support people with disabilities, even money for research, is raised by direct appeal to the public for corporate and individual donations. Without regular appeals by the major charities, the flow of money needed to run institutions, provide support services and undertake research would dry up. To successfully appeal to public generosity, charities often portray the most harrowing and handicapping aspects of the disability and deliberately highlight the dependency of those afflicted with it. When giving to charities people like to feel that they are helping someone much less fortunate and able than themselves. The charities know this and play on it, often to the great annoyance of those with the disability who object to their portrayal as supplicants with no potential to be useful members of society. There are policy implications in this. Clearly, if the public are constantly presented with negative images emphasizing only helplessness they are going to be less ready to contemplate disabled people entering employment on a basis of equality. The potential confusion of images between independence and mainstream participation, and frequent appeals for charity, calls for careful management.

As state funding of services to disabled people diminishes in the countries of Central and Eastern Europe, the role of charitable organizations will increase. It will be essential to ensure that a 'charity image' does not harm the cause of disabled people's mainstream aspirations.

Not only charities, but organizations of disabled people themselves sometimes project negative images. In attempting to establish an identity, the unsophisticated among them often create logos and badges bedecked with wheelchairs, crutches and walking sticks; they would do well to think positively when promoting their image.

## Information

The requirement of image sensitivity carries over into the design and wording of information.

Employment-related disability issues give rise to a range of information needs, examples of which are given below.

**Disabled people (and their families)** will need information on:

Vocational training opportunities, both mainstream and segregated.

Vocational rehabilitation and selective placement services.

Job vacancies.

Sheltered training and sheltered employment.

Legislation relating to quota and quota/levy schemes, reserved occupations, anti-discrimination laws (if any).

Benefit entitlements.

The availability of special aids to employment.

Transport concessions.

**Employers** will need information on:

Recruitment sources and the availability of disabled persons seeking work.

The selective placement service; the advice and assistance it can offer.

Impairments, disabilities and handicaps; how they will affect performance and how they may be best accommodated.

Legislation on quota/levy schemes, anti-discrimination -- laws where in force.

The availability of tax concessions for training/employing disabled staff, subsidies or grants to assist with workplaces modifications.

Positive policies for employing people with disabilities, and devising codes of good practice.

Advice on alternative and flexible working patterns to facilitate employing staff with disabilities.

On-site rehabilitation methods, and how best to retain staff who become disabled.

**Trade unions** will need similar information to that of the employers, and will also need guidance on eradicating discrimination in the workplace.

The role that trade union membership could have in disability prevention is through observation and enforcement of health and safety measures.

**The general public** will need information on:

The true prevalence of disability in their society.

The value of vocational training, guidance and rehabilitation in reducing the handicapping effect of disability in employment.

Government policies and services to promote the mainstream integration of people with disabilities into the nation's workforce.

Government policies and services for those people with disabilities unsuited for full-time open employment.

The above are not exhaustive lists, only examples of some of the most common information needs.

If we are serious about the development of quality services for disabled people, and particularly for their integration into mainstream opportunities, information on these topics is essential. The information must be well produced, accurate, sensitive in the images it projects and well managed, so that it reaches the intended targets in sufficient quantity and at the right time.

A feature of free-market economies is the growth of their information and advertising industries. They demand that consumers and potential customers are constantly told of the products in an informative and easily remembered style. If products and services relating to people with disabilities are going to compete for attention they must be similarly professional in presentation. Good information and publicity is expensive, but not so expensive as information poorly produced and badly presented. Good leaflets get distributed, informative brochures get read, attractive posters are displayed, films and videos with short, punchy messages are viewed. Bad leaflets, brochures, posters, films and videos gather

dust in filing cabinets and office cupboards until they are thrown away unread and unseen; they are very expensive.

## Information resource sharing

Information is essential both for image promotion and for service development. It will be a budget item for governments, NGOs, charitable organizations, employers and trade unions. Well produced information materials are more cost-effective than bad, even though the initial production costs of the bad may be lower.

One way of minimizing costs of information and advertising will be through developing mechanisms for coordination. This will reduce the risk of duplication and of contradictory statements being made. For governments, ministries of information should coordinate the output and might offer their services to the NGOs, particularly to national organizations of disabled people. National councils of social service organizations should consider pooling their resources and planning annual information and publicity campaigns targeting previously identified gaps in public awareness.

The private sector of advertising agencies, information and media producers might be canvassed to assist. For some, helping with the production and distribution of information could substitute for an annual cash donation to charity.

Good information, promoting positive images of disabled people and their potential is most likely to result from civil servants, disabled people, media professionals, employers, trade unions and charitable organizations meeting, planning, pooling resources and implementing coordinated campaigns.

Any information disseminated should accord with the policies of the country, such as international conventions and recommendations that the government has ratified. Confusion over policy is always a severe handicap.

### **POZNAN DECLARATION**

**The participants of the International Conference on Labour Market Policies for Disabled Persons, organized jointly by the International Labour Organization and the Government of Poland with the support from the German Ministry of Labour, and which took place in Poznan, Poland, from 22 to 24 February, 1994 have agreed on the following Declaration:**

**Bearing in mind that disability is a social and economic issue, not just a medical one and that it is not a minority issue but a matter of fundamental human rights,**

**Acknowledging the fact that people with disabilities are more likely than others to face discrimination and disadvantages in finding and maintaining suitable employment, to be prevented from full participation in the economic and social life of their communities and to be deprived of a decent income,**

**Considering further that the present economic and social restructuring in the countries of Eastern and Central Europe present a serious threat for the well-being of disadvantaged population groups and pose a formidable challenge to the social policies of these countries,**

**Mindful of the principles and recommendations developed during the United Nations Decade of Disabled Persons, and in particular those contained in Convention 159 and Recommendations 168 and 99 of the International Labour Organization to the formulation of which the countries of this region have actively contributed,**

**Referring in particular to the right of disabled persons to equal treatment and opportunity in training and employment which is enshrined in these international instruments and which several countries of the region have adopted as national policy by ratifying ILO Convention 159 and**

**Noting that many countries of the region have made and continue to make serious efforts to adopt and implement policies aimed at providing assistance to disabled persons in gaining access to employment and that despite serious economic and financial difficulties and hence serious shortcomings in the implementation of policies many successful programmes have been initiated which could be examples of good practice,**

**We reaffirm the governments' commitment to promote policies that aim at providing disabled people with realistic opportunities for gainful employment, with equal possibilities to advance in employment and with greater job and employment security,**

**We call on all government departments, employers' and workers' organizations - in particular in countries which practice social partnership models - as well as any other concerned social groups or non-governmental organizations directly or indirectly concerned with the situation of disabled people and who are part of a new plurality of decision making to increase their efforts to ensure disabled people the necessary support in the exercise of their right to equal treatment and opportunity in employment and in doing this to ensure that their dignity as equal citizens and workers is fully respected,**

**Countries should strive to make an even greater effort to create job opportunities for disabled people both by strengthening and improving existing employment systems such as special cooperatives and enterprises as well as by promoting their inclusion of the disabled workers into the mainstream of the open labour market,**

**We believe that to achieve a more effective labour market participation for disabled people special legislative measures are required such as quota systems, levy systems or others which impose obligations on employers but also assist them through a variety of incentives; in proposing this we are aware, however, that such legislation will not achieve its objectives unless it is really enforceable and complemented by other active measures such as skill training, vocational guidance and qualified job placement services; the development of such services will be greatly enhanced if funds are available from a national levy-based rehabilitation fund as already practiced in some countries of the region,**

**We fully support the quest of disabled persons to have a greater say in matters concerning them and we encourage, therefore, the strengthening and formation of representative groups of people of different types of disabilities and their cooperation in national councils to have their views taken into account by policy-makers; positive experiences in applying this approach should be examined and, wherever possible, be replicated in other countries of the region,**

**We strongly feel that more scientific research and analysis is required to develop concepts, to help policy-makers to find best solutions, to correct ineffective practices and to better compare the labour market situation of disabled persons in various countries of the world; as part of this effort we suggest a more systematic exchange of experiences among countries inside and outside of the region, in particular by cooperation among research institutes,**

**We also recognize that much can be learned from other countries which are further advanced in labour market inclusion policies; however, any expert advice should be sensitive to the needs, traditions and conditions of the countries of this region,**

**We recommend that cooperation with international organizations such as the International Labour Organization should be intensified to benefit from their experience and to develop linkages and partnerships with other countries and institutions; practical assistance from these organizations such as the development of training materials and the running of policy and training seminars will be particularly welcome; international cooperation among non-**

**governmental organizations and among organizations of disabled persons, in particular, should be encouraged,**

**We warmly welcome the policy manual concerning disabled workers in Central and Eastern Europe which was produced by the International Labour Office with the support from experts from the region and which incorporates views and comments from the participants at this Conference; we acknowledge that this manual is primarily intended to demonstrate the policy implications of strategies aimed at integrating disabled people in the open labour market and to stimulate new ideas and approaches many of which have stood their test in other parts of the world; we recommend this manual as a guide for policy-makers and any other social actors concerned with employment policies and programmes for disabled persons,**

**Finally, we strongly recommend that the issue of employment of disabled persons and, in particular, their integration into the mainstream of education, vocational training and public and private industry, commerce and services should be given higher priority both in national policies and in international assistance programmes.**