LABOUR MIGRATION OPPORTUNITIES
OF PEOPLE WITH DISABILITIES WITHIN SHELTERED EUROPEAN
UNION LABOUR MARKET

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Abstract

The paper presents the possibility of migration of people with disabilities within the sheltered labour market in the European Union. The article consists of three chapters, introduction and conclusion. The first part defines a sheltered labour market in an international context. The second part contains a description of selected instruments used in sheltered labour market in the EU member states. The last chapter describes the barriers and opportunities for labour migration of people with disabilities. These people may migrate – however there are many obstacles which limit meeting the needs in this area. The barriers may be objective or subjective in nature. This article concentrates on the objective ones. Subjective barriers result from the the nature of the person and their disability, so it is difficult to outline them without detailed study in this field. However, it is well known that the activity of people with disabilities is not significant. Objective barriers are usually of formal and legal nature. If one adds to that the remaining barriers resulting from the dysfunction it forms a very complex and complicated set of obstacles that effectively deters people with disabilities to work abroad.

Keywords: people with disability, sheltered employment, work place

Introduction

Labour market topic is inseparably connected with the problem of going to work abroad. Joining the European Union on 1 May 2004 and the opening of borders, as well as Polish economic situation and high unemployment have made the labour migration easier. It is extremely difficult to estimate the exact number of people going abroad for work purposes. Some of them are leaving for an extended period, but in most cases, migration is seasonal and shuttle. People with disabilities can also migrate - but meeting their needs in this area is restricted by many obstacles. They can be of objective or subjective nature. This paper applies only to the objective ones. Subjective barriers arise from the nature of the person and their disability, so it is difficult to describe them without thorough research in this field. However, it is well known that the vocational activity of persons with disabilities is not too high. Thus, a similar scheme can also be adopted in the case of migration, which is associated with mobility and making risky decisions.

1. Sheltered employment in Europe - the definition

The concept of a sheltered work has been defined - taking into account the most recent views - at an international seminar held in 1959 in The Hague, on the initiative of the International Society for Rehabilitation of the Disabled, acting in cooperation with the International Labour Organisation. It was accepted then, that sheltered employment should combine elements of both employment and professional rehabilitation. The International Labour Organisation (ILO) was authorised to develop guidelines and to determine what features sheltered employment should have. It resulted in organising of a special seminar in Stockholm in 1965 during which the recommendations of the ILO on sheltered employment were enacted and adopted [Garbat, 2012b, p. 219]. According to the ILO: "Sheltered employment should be understood as productive and paid employment, corresponding to the special conditions necessary because of the need of temporary or permanent employment of people with disabilities. Sheltered employment, which is one of the aspects of professional rehabilitation, should always meet its primary goal which is to provide jobs. Such employment should be based on the principles of economics and management of sheltered workshop, from the point of view of technology, should not differ greatly from ordinary business management. The wage system - including piecework pay or hourly pay - should be based, if possible, on a system of wages for ordinary workers, however, taking into account the fact that they are
used in special conditions of sheltered employment. If conditions warrant, wages may be supplemented from other sources in order to provide the employee an appropriate level of life” [Recommendation 99, 1955]. The recommendations of the ILO describe the tasks of sheltered workshops as follows: “sheltered workshops should, under appropriate medical and professional supervision, ensure the disabled not only productive and paid employment, but also possibilities of professional adaptation and development, and, if possible, the transition to employment in the open labour market” [European Seminar on Sheltered Employment, 1963].

ILO definition thus determines two main objectives of sheltered workshops [Johnson, 1999, p. 22]:

- providing opportunities of paid employment for people with disabilities,
- professional adaptation of the disabled.

Many scientists have questioned the possibility of proper implementation of both of these goals together, as in fact they are opposed to each other [Migliore, http, 2014-06-10]

Binding together paid employment with professional adaptation has therefore multiple aspects. As a result, even in countries with a similar level of rehabilitation system development and a similar state of the labour market, there are different organisational solutions for sheltered workshops. In some countries, they combine paid employment with professional adaptation. In others, beside sheltered workshops oriented at paid employment of people with disabilities, there are separate institutions for testing the ability to work, trial and selection of suitable work and professional adaptation. Finally, there are indirect solutions; there are in fact separate, sheltered workshops and plants of adaptation to work, but they are linked organisationally, most often located in the vicinity and under the same management.

Currently, sheltered employment is defined as employment of people with disabilities in the conditions specified by provisions of law. Such employment is paid and efficient work which should bring a certain income. The law determines the nature and scope of protection of the employed person. It may relate to various aspects of work and have a different character, scope and nature. Therefore, the discussion on the exact definition of sheltered employment remains open. Many factors may have influence on it - ranging from working conditions, which are differently shaped depending on the degree and type of disability of employed worker, to the workplace environment (physical and business), wage and working time. In order for disabled person to perform work efficiently and in accordance with the required standards, the environment as well as the entire work process is being adapted according to their needs in this area. Adaptation may include: technical-instrumental workplace adaptations, architectural modifications aimed at improving access to work and organisational changes (eg, possibility to work part-time or share work). Protection is provided to those who because of their disability are unable to achieve the expected standards; protective measures include identification of deficit of efficiency and - compared with working in a competitive environment - creating a relevant protected zone for these people.

According to the definition of the International Encyclopedia of Rehabilitation, protected work is an alternative work in the open labour market, and is run by specialised companies, with preference for relatively simple activities, such as assembly, packaging, wood processing, production, services, or sewing. These entities may also offer, for example, educational programs or ways of spending free time. Such work has a different meaning from occupational therapy to the real source of income. These differences derive from the objectives of workshops, which can range from long-term care, through rehabilitation focused on the transition to the open labour market to long-term employment [ Officer, 2012, p. 32]. Therefore the status of people with disabilities can vary from a patient (in the case of long-term care), a person preparing to employment, to the actual employee. Entities that employ workers in protected conditions exist under different names: special work centres, industries, industrial workshops, training workshops, professional workshops, business services or rehabilitation workshops. Even if the main purpose of these entities is the work, their working environment is different from the environment in the open labour market. Emphasis is placed on such work, which is tailored to the skills of the participants, while on the open labour market, it is important to match the skills of people to the needs of the workplace [ Paszkowicz, 2013, s. 39].

The Irish National Rehabilitation Board’s National Advisory Committee on Training and Employment (NBR’s NACTE) [ Martin, 2001, s. 40] defines sheltered employment as employment in enterprises established specifically for the purpose of employment of people with disabilities. These companies, thanks to hiring workers with disabilities, receive special public funding. This applies to
sheltered employment, when employees have a contract of employment [O'Hara, http, 2014-06-10].

2. Sheltered employment - selected instruments used in EU countries

Issues related to the specifics of sheltered employment in Europe raise discussions on many topics, e.g.: transience and permanence of employment, the employment of people with disabilities with the same or different types of disability, the size of companies employing workers with disabilities, the range of rehabilitation services provided by them and their economic self-sufficiency. A particularly important and often discussed question is the purpose and scope of sheltered workshops. It comes from the fact that the sheltered workshop model is shaped in different countries depending on the degree of development and expansion of rehabilitation system, as well as from the existing situation on the labour market. In every country the activities of sheltered workshops depend on the specific socio-economic conditions [Garbat, 2012a, p. 122].

In countries without full employment sheltered workshops provide primarily paid employment and less attention is paid to the needs of people with disabilities in the field of rehabilitation services (Russia, Czech Republic, Bulgaria). However, in countries with full employment more attention in sheltered workshops is paid to the issue of adaptation of people with disabilities and then transfer them to regular companies, if such possibility exists (Sweden, Norway, the Netherlands).

The analysis of the rehabilitation systems in European countries showed that sheltered workshops are usually small organisational units. Employment ranges there from 11-50 people. These units employ people with disabilities, whose physical or mental condition prevent or significantly hinder their work in ordinary workplaces. They employ mainly the blind or people with cardiovascular, neurological, psychiatric and mental disorders (United Kingdom, Sweden, Norway). They are usually run by the organizations from social economy sector (Croatia, Germany, Finland, Italy).

The production system in the analyzed sheltered workshops is based mainly on manual-automatic work. Only automatic or only manual works are rare. This is justified by the need for diversification of workstations, among other things, due to the difficulty of work. Most of sheltered workshops use pay per hour or pay per unit of product system. Some use pay per hour system with special bonus depending on the amount of units produced. Those workshops are not aimed at profitability. They use all kinds of help from the state or public institutions (exemptions or tax credits, subsidies, privileges in business) for providing a variety of rehabilitation services.

The size and type of rehabilitation personnel in sheltered workshops depend on the number of employed persons with disabilities and the nature of their illnesses. Many rehabilitation professionals are part-time employed. In some workshops rehabilitation services are provided by outside institutions. The rehabilitation staff consists mostly of: doctors (including specialists in orthopaedics or psychiatry), nurse, psychologist, professional adviser, profession instructor, social assistant, physical education instructor, and occupational therapist, teacher for the blind or sign language interpreter for the deaf.

Funding and support for sheltered employment comes in many forms. Most often, every country has a special fund, which has a legal mechanism to collect funds for this purpose. The collected funds are used in a number of ways - depending on the social policy objectives conducted in the country. Most of this money is directed to professional rehabilitation. It is transferred to the employers in the form of grants for the maintenance of existing and organisation of new jobs for people with disabilities, wage subsidies, financing professional programs, training and courses. It may also be addressed directly to persons with disabilities to help in starting their own businesses, financing costs of commuting to work, buying own car. Grants may also be addressed to institutions and companies engaged in professional guidance for persons with disabilities or their further training as well as those conducting information campaigns among employers and society [Garbat, 2013, p. 47].

In the presented countries one can also meet the derogation from the principle of directing resources exclusively on professional rehabilitation. Exceptions are, however, rare and can mainly be found in those countries in which the Fund, except for the collection of contributions, is also supplied from other sources. For example, in Hungary, the Fund uses budgetary subsidies, income from some charity events, sporting and cultural activities. The collected funds are spent on professional rehabilitation, and social rehabilitation purposes: support for sport and tourism, the elimination of architectural barriers in urban infrastructure [Garbat, 2012b, p. 141].
The experience of many countries shows that one of the conditions for the development of professional rehabilitation is coordination in this field of activities planned by various institutions and offices. This is due to the multilateralism of the issue itself, new problems rising from year to year, creation of rehabilitation centres and, depending on the subject matter - the delegation of the problems of rehabilitation to various ministries and institutions which solve them often on their own. In many countries there are national advisory committees coordinating all actions in this regard. For example, in France - Departmental Centres for Persons with Disabilities, in the UK - National Council for Persons with Disabilities, and in Spain - the Royal Council for Persons with Disabilities. Coordination of work enriches the activities of individual institutions, contributes to the elimination of duplication of work and reduces the expenses connected with it.

3. Labour migration of people with disabilities within European Union

Labour migration is defined as the movement of people across borders due to employment in a foreign country. The term "economic migrant" is sometimes used as an equivalent of the term "labour migrant" or "migrant worker". However, "economic migrant" can be used more widely, including those who have come to the EU to conduct a different type of economic activity, for example as investors or business delegates. Migration is one of the important issues of human existence. Especially in the era of industrialisation, urbanisation, it can be included among the important concepts of social life of individuals. More and more often in fact, this problem becomes common, not only in environments with high social status, but also among those people who are experiencing various degrees of welfare. Consequently, it is the pursuit of practical materialism in order to improve the economic status [Gabryszak, 2008, p. 243].

In order to work in the European Union one must be in the possession of various documents such as: a passport, personal data translated by a certified translator (including information on education, qualifications and professional specialisation) and the completed Europas Sibi - a document in the form of a table containing all the data (standardised in all countries of the European Union). Regarding the recognition of professional qualifications in the European Union, the issue is subject to the so-called general system of recognition of qualifications. The essence of the general system is to compare the duration and scope of the training program implemented by the applicant with the requirements in force by the relevant authorities in the host country (ie the country in which the applicant intends to recognise qualifications) [Ustawa z dnia 18 marca 2008]. If the person applying for recognition can not present documents proving the minimum training requirements (at least three years or 4,600 hours), they may apply for recognition of qualifications in general terms [Dyrektywa 2005/36WE].

If the scope of education and training that the applicant has received, is significantly different from the one that is required in the host Member State and the applicant's professional experience does not compensate for these differences, the host Member State may use one of two compensatory measures. The authority recognising qualifications may make a decision that the applicant have to complete an adaptation traineeship not exceeding three years or take a qualification test. Applicants have the right to choose one of the above mentioned forms of compensatory measures [Rozporządzenie Ministra Nauki i Szkolnictwa Wyższego z dnia 9 października 2008].

It should be emphasised here that there are many jobs abroad available for people with disabilities. Most often the employers try to make all formalities easier for them (accommodation, travelling, etc.) The most popular destinations for the disabled are England and Ireland. Also in Italy there are many job offers with additional help in applying to them (hotel industry, tourism). France has opened its labour market from 1 July 2008, allowing the employment without a residence permit. Nowadays, the European Union has the principle that "every labour migrant has the same rights as native citizen". However, the EU law does not have legal regulation concerning the mutual recognition of judgements about disability and the Republic of Poland is not a party to an international agreement allowing for the mutual recognition of documents confirming the status of the person with a disability from other member states of the European Union. The systems of disability entitlement in these countries are not uniform, and each country uses their own criteria. Therefore, the holder of a document confirming the disability, issued by a Member State of the European Union, can not be considered as the disabled in the light of Polish law.

The unemployed, including those with disabilities, have to report their attempt to work abroad in their local employment offices, others do not have to do that. In England, one can not count on the benefits, ie social assistance,
accommodation, catering. There are registered institutions abroad as well as Polish embassies which may help in critical moments and personal crisis. The European Employment Service (Euras) is recruiting for jobs in new EU countries, such as: Slovakia, Slovenia. The Voluntary Labour Regiments also deals with registration of those willing to work abroad within the European Union. Voivodship Labour Offices receive job offers from EU employers through the EURES Network (including offers from Norway and Iceland).

Conclusions

There are no data regarding migration of people with disabilities in the European Union. Most probably, for a long time such reliable data will not be available. A number of factors are the reason of such situation. First of all, the definition of disability. Systems of disability entitlement in these countries are not uniform, and each country has their own criteria of disability entitlement. Thus, a person, who in one Member State is considered to be a person with a disability, in another country could not receive the legal status of the disabled. Moreover, in many EU countries there are several definitions of disability used for various purposes, such as social rehabilitation, professional rehabilitation, employment, medical care, education. Depending on the concept of social welfare and legislation in a given country, people with disabilities are often “combined” with other groups that are exposed to discrimination (excluded, with reduced competitiveness in the labour market). One should notice, however, that each of these groups has different conditions of social exclusion and low employability. These groups are characterised by a lower level of income, and even in case of some groups - material poverty. Job offers for groups at risk of social exclusion are integrated, but unfortunately separately taking into account the specific needs and problems of each group. Each country establishes the concept, direction and scope of sheltered employment according to their own requirements. Based on logical assumptions, one can predict a different model of sheltered employment in countries with widely developed professional rehabilitation programmes (such as the UK, France, Sweden), and other countries with narrow, incomplete programs (eg in Bulgaria, Romania, Spain ). In the former countries, there can be far-reaching division of functions in the whole system of social policy (occupational therapy establishments, rehabilitation centres, centres for adaptation to work, sheltered employment, professional activation establishments) and therefore designation of a relatively narrow range of activities for each of the system entities is sufficient. Whereas in the latter countries, when for example a sheltered workshop is created, one focuses there on the different features that are not performed by any other institutions. In countries with a low level of employment (eg Hungary, Bulgaria, Romania) one focuses primarily on providing paid employment, with less regard to the needs of people with disabilities in the area of rehabilitation and sheltered employment. Whereas in countries with high level of employment and high demand for labour (eg France, UK, Germany) attention is paid to adaptation of persons with disabilities to work and possibly of transferring them to the open labour market.

Economic migration for people with disabilities provides an opportunity to find a job, however, it is very difficult or even impossible to achieve. Such person faces a number of barriers of physical, social and legal nature. The first of such barriers are the features of the very person - the type and degree of disability. It is difficult to determine whether a person with a severe physical disability finds a job in the EU country. Such an objective may be difficult or impossible to achieve. However, not always and not everywhere. It may be quite the opposite. If such person has the requested professional qualifications, the disability may be an advantage. In the European Union the co-financing applies to workplaces where the disabled workers are employed. The range of instruments used in this regard is very wide. This is a attractive target for many employers.

It should also be noted that in many countries there is appropriate anti-discrimination legislation supported by major sanctions. Article 13 of the Treaty of Amsterdam from 1999, prohibits discrimination and authorises the European Commission to prepare and submit to the Council and Parliament the specific proposals for actions in this regard. As a result of this regulation, a number of Member States have introduced appropriate legislation in this regard. The best example is the UK, where job candidates can not suffer discrimination because of their disability.

There is one more quite significant obstacle that must be presented. It involves obtaining the legal status of persons with disabilities in the EU country. These issues are not regulated by international law. Therefore, in order to obtain legal status of a person with a disability, one needs to submit to the jurisdiction, which functions in the certain country. Theoretically it is possible, however practically it is very difficult to achieve. This requires a translation of many medical documents into a foreign language, submitting to expensive examination and obtaining the opinion of experts from a given medical field. All
that has to be paid for, and it cost a lot of money. The exception is the decision issued in the case of road accidents (covered by the insurance policy), or accidents at work (workers legally employed). As a result, one may find it impossible to meet medical and legal criteria to obtain the status of persons with disabilities. This deters potential emigrants, especially which in their own country they receive small but certain benefits because of their disability. The lack of legal confirmation of biological disability prevents the employment on a sheltered labour market.

Summing up, it can be concluded that the migration of people with disabilities within the sheltered labour market in the European Union is possible, but exposed to many barriers, particularly of legal and formal nature. If we add barriers resulting from a given dysfunction it provides a very complex and difficult group of obstacles that effectively deters people with disabilities to work abroad.

References