

WORKING PAPER



A human rights perspective on integration of disabled persons in the competitive labour market

EVIDENCE FROM THE LEGISLATIVE FRAMEWORKS OF POLAND, BULGARIA, SWEDEN AND BELGIUM

Jolien De Norre & Sofie Cabus



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A HUMAN RIGHTS PERSPECTIVE ON INTEGRATION OF DISABLED PERSONS IN THE COMPETITIVE LABOUR MARKET

Evidence from the legislative frameworks of Poland, Bulgaria, Sweden and Belgium

Jolien De Norre & Sofie Cabus

Abstract

The United Nations Convention on the Rights of People with Disabilities included the right to decent employment in the open labour market in its article 27. Although all countries in the European Union signed and adopted the CRPD, large employment gaps remain between persons with and persons without a work disability. We review the legislative framework on integration of disabled persons in the competitive labour market in four countries: Belgium, Bulgaria, Poland and Sweden. Doing so, we apply a human rights framework in reviewing the way countries define disability; which benefit schemes are in place; how equal opportunities in the workplace are advanced; and which active labour market policies support disabled persons in finding and retaining employment. We find that countries define disability in many different ways, and often not in line with the human rights approach to disability. Other policy areas have small differences between countries, with some impact from European regulation unifying anti-discrimination law.

COMMENTS ARE WELCOME sofie.cabus@kuleuven.be

KU Leuven
HIVA - RESEARCH INSTITUTE FOR WORK AND SOCIETY
Parkstraat 47 box 5300, 3000 LEUVEN, Belgium
hiva@kuleuven.be
<http://hiva.kuleuven.be>

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Executive summary

There is an increasing recognition that an inclusive, supportive and diverse environment provided by the employer could supplement in empowering both disabled and non-disabled persons at the workplace and ensure organizational success. The right of people with disabilities to decent work, however, is frequently denied. People with disabilities face enormous attitudinal, physical and informational barriers to equal opportunities in the world of work. In spite of increased acknowledgement of the value and need to support employment of people with disabilities, their unemployment rate remains high compared to the general population.

The Go4Diversity ESF transnational project aims to enhance the employment rate of people with working disabilities by means of focusing on the point of view of employers towards hiring people with working disabilities. Increased knowledge and changing attitudes are expected to lead to increased trust and the courage to hire persons with occupational disabilities. In a time of EU greying labour market, and war for talents, the talent pool of disabled persons is grossly underused. Go4Diversity therefore aims to highlight both the economical and the human rights aspect linked to inclusive entrepreneurship.

The Go4Diversity project explores and takes on these challenges in several ways.

First, we examine the legislative frameworks on integration of disabled persons in the competitive labour market in four countries: Belgium, Bulgaria, Poland and Sweden. Doing so, we apply a human rights perspective in reviewing the way countries define disability; which benefit schemes are in place; how equal opportunities in the workplace are advanced; and which active labour market policies support disabled persons in finding and retaining employment. This cross-country comparison of the legislative frameworks in these four countries is provided in this paper. Additionally, we explore literature reviews and experimental studies on interventions that successfully increased employment of disabled persons, to identify incentive boosters for employers in the competitive economy to hire or to (re-)integrate a person with a work limitation.

Second, we study the factors that hinder or facilitate hiring intentions of Flemish employers towards disabled persons. Results are obtained by questioning employers with, and without a history of hiring disabled employees, so called ‘matchmakers’ who are trying to ensure jobs for people with disabilities (e.g. jobcoaches, consultants, interim office workers, the informal network of jobseekers, ...), and disabled persons.

Third, we develop an effective hands-on tool for matchmakers to support them in taking on an employer’s perspective. This training course consists of an online E-course, a printable syllabus, and a collection of infographics on understanding employer needs, how to reach out to employers, and how to engage and keep employers committed to offering employment opportunities for disabled persons. An impact evaluation is performed to validate the effectiveness of the tool.

Additionally, we make an animated short film directly targeting the hiring intentions of employers. This video informs employers about the existing governmental support measures for employers who hire disabled employees, and the possibilities for employers to enable professional matchmakers to assist them in sustaining an inclusive and diverse work environment.

Finally, we build a central website, making all the gathered and newly developed knowledge, tools and other materials easily accessible to employers, matchmakers and employees with and without disabilities.

While the national partnership (Divergent - Ghent University, HIVA-KU Leuven, GRIP, VDAB and VOKA) directly cooperates on the development of these deliverables, a transnational partnership of Poland, Bulgaria and Belgium is set up for expert review, exchange of views, and sharing of good practices.

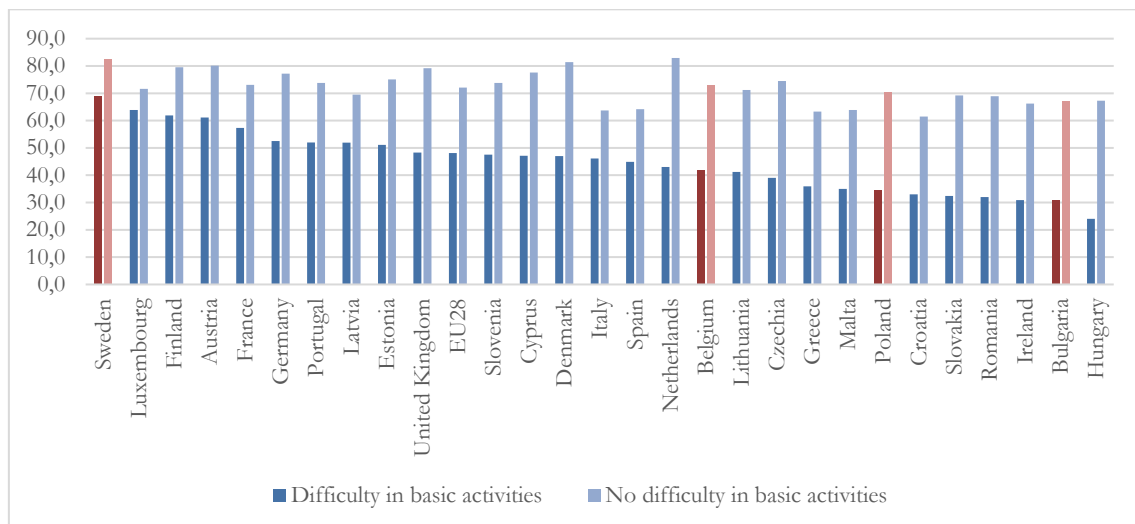
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We wish to express our gratitude to the transnational partners from Bulgaria, Poland and Sweden, who are involved in our ESF study, for their valuable contributions.

1 | Introduction

Social inclusion and empowerment of people with occupational disabilities go hand in hand with participation in the labour market. The UN Convention on the Rights of Persons with Disabilities (2006) is one of the core international human rights treaties and intended to protect the rights and dignity of disabled persons. In it, state parties also agree to safeguard and promote the realization of the right to work for persons with disabilities. However, in the European Union, on average only 48.1% of people aged 20-64 that self-report a disability are employed, as opposed to 72.1% of people with no disability (Labour Force Survey, 2011). While occupational disabilities may hamper or foster a person’s lifetime perspectives on European labour markets in a similar way, these rates, however, mask large differences between countries (figure 1.1). In this paper, we wish to explain the observed heterogeneity by looking at the national employment and (re)integration policies for people with occupational disabilities. In particular, we explore four countries: Belgium, Bulgaria, Poland and Sweden. As can be observed in figure 1.1, three of these countries, namely Belgium, Bulgaria and Poland, perform below the EU 28 average when it comes to labour market integration of people with disabilities. On the contrary, Sweden is a top performer in the European Union. Sweden has the highest employment rate of people with a disability (self-reported as ‘difficulty in basic activities’) in the EU (69.0%), and the second smallest gap in percentage points between people with a disability and people without a disability (13.6 percentage points). On the other hand, Bulgaria has the second-lowest employment rate for people with a disability (30.9%) and the fifth largest employment gap in the EU (36.2%). Belgium and Poland fall in between these countries, but are both still performing worse than the EU average with regard to the employment rate of disabled persons and the employment gap.

Figure 1.1 Employment rate of disabled and non-disabled people (age 20-64), 2011



Source Labour Force Survey, 2011

This paper is structured as follows. In section 2, we discuss for each of the countries, Belgium, Bulgaria, Poland and Sweden, in which way disability is defined and assessed in the policy framework. Further, we discuss the compensation measures, anti-discriminatory actions, and the active labour

market policies, that exists in these four countries. Doing so, the human rights based approach and the CRPD are adopted as a starting point. This framework is developed in the first section, where we also discuss the implications on defining disability and on the policy framework at the level of the European Union. Section 3 gives a country-by-country overview of the legislative framework on labour market integration for people with disabilities. Then, we apply the human rights framework in a cross-country analysis in section 4. Section 5 concludes.

2 | A human rights based approach to disability

2.1 Definitions

In this paper, we adopt a Human Rights based approach to disability. This means that we base our analysis on the framework provided in the UN Convention on the Rights of Persons with Disabilities (UN CRPD). In this regard, we first need to define the concept of disability and clarify how this definition relates to the Human Rights perspective. While it may seem like a straightforward term, disability is a complex and contested concept that is subject to many political and theoretical debates. The concept has also evolved over time, and it is recognized as still evolving by the CRPD in its preamble.

Based on the works of Oliver (2013; Oliver & Barnes, 2012), Shakespeare (2006) and Kazou (2017), we distinguish three models of disability: (1) the medical or individual model; (2) the social model; and (3) the interactional model. These three models reflect different ways of looking at how disability arises and at how society should therefore react to it. In the medical model, disability is mainly seen as a medical issue of the affected individual, whereas in the social model, disability is seen almost exclusively as with regard to the disabling role of the social environment. The interactional model compromises by highlighting the interaction of the individual medical issue with the social environment. We argue that the CRPD adopts an interactional model on disability.

For a long time, the medical model of disability has been the dominant paradigm in understanding disability, its causes, effects, and what are thought to be the required answers. In the medical model of disability, problems arise from the dysfunctional body. Disability is seen in terms of functional limitations that result from biomedical impairment and require medical solutions. Solutions to disability are then found in the form of individual medical prevention, cure or rehabilitation. In medical approaches to disability, disability is understood from an individual perspective. Some authors in disability studies, like Oliver, prefer the term ‘individual’ model, wherein medicalization of disability is merely a symptom of an individualized perspective on disability (Kazou, 2017).

The social model of disability originates in mainly British disability activist groups from the 1970s and 1980s as a reaction to the medicalized deficit thinking, and it is closely related to critical and emancipatory theory. In the social model (the British strand), a distinction is made between *impairment* (the functional limitation within the individual caused by physical, mental or sensory impairment) and *disability* (the loss or limitation of opportunities to take part in the normal life of the community on an equal level with others due to physical and social barriers) (Disabled People’s International, 1981; Kazou, 2017). In the social model, disability is seen as a problem of social and economic structure, or even as a form of oppression, which is added on top of the problems of functional impairment. In the social model, the problem is not found in the individual’s functional limitations, but rather in society’s incapacity to address the needs of persons with impairments. In this view, it is the environment which is ‘disabling’. This distinction has important consequences with regard to what is generally viewed as an appropriate societal response to disability (removing disabling barriers in society, vs. medical solutions), as well as what is thought of as the cause of disability (social and environmental barriers to inclusion and participation, vs. impairment).

However, a critique of the social model points to the limitations in considering impairment and the related medical aspects as entirely irrelevant to the experience of disability. In interactional models, disability is seen not as purely medical nor purely social, but rather as an interaction. For example, the World Health Organization adopts a more balanced and multidimensional understanding which

combines medical and social approaches (Kazou, 2017). In its International Classification of Functioning, Disability and Health (ICF) a classification of both health (-related) domains and environmental factors are listed. More specifically, the WHO defines three separate aspects which make up disability: impairment, activity limitation, and participation restriction. Disability is then seen as the interaction between an individual with a health condition and environmental and personal factors.

*Disabilities is an umbrella term, covering impairments, activity limitations, and participation restrictions. An **impairment** is a problem in body function or structure; an **activity limitation** is a difficulty encountered by an individual in executing a task or action; while a **participation restriction** is a problem experienced by an individual in involvement in life situations.*

*Disability is thus not just a health problem. It is a complex phenomenon, reflecting the **interaction** between features of a person's body and features of the society in which he or she lives. Overcoming the difficulties faced by people with disabilities requires interventions to remove environmental and social barriers'.¹ (ed: emphasis added)*

The UN Convention on the Rights of Persons with Disabilities (UNCRPD) also adopts the element of interaction between persons with impairment and the barriers that exist in society. This interaction leads to disability.

[D]isability is an evolving concept and [...] results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others'. (UNCRPD, 2006, p. 1)

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others' (UNCRPD, 2006, p. 4).

According to several authors (Al Ju'Beh, 2017), the human rights model is based on the social model and also seeks to transform unjust systems and practices. It takes the UNCRPD as its main reference point and sees people with disabilities as the 'central actors'. In Al Ju'beh (2017)'s interpretation of the human rights model, disability is the result of an impairment combined with a barrier. In the same way, inclusion is the result of impairment combined with an accessible environment.

However, based on this focus on 'interaction' Kazou (2017) argues that the definition of disability in the UNCRPD is closer to the interactional approach in the ICF than to the 'pure' social model. In fact, there is an important difference between the conception of disability in the UNCRPD and in the ICF as opposed to the traditional social model. This difference is found in the dynamic understanding in the former (the interaction between individual and context) whereas in the social model, there is a more static view on what leads to disability (namely the societal barriers).

In table 2.1, we give an overview of the three different models discussed above, as well as some examples of where an application of each model can be found. For example, the WHO's most recent International Classification of Functioning Disability and Health is seen as an example of the interactional model, as opposed to its previous classification system, the International Classification of Impairments, Disabilities and Handicaps.

¹ <https://www.who.int/topics/disabilities/en/>.

Table 2.1 Different understandings of disability and some examples of an application of the model

Model	Understanding of disability	Examples
Medical/individual models	Sees disability as a problem of the individual that is directly caused by a disease, an injury, or some other health condition and requires medical care in the form of treatment and rehabilitation	WHO's International Classification of Impairments, Disabilities and Handicaps (1980)
Social model	Sees disability as created by the social environment, which excludes people with impairments from full participation in society as a result of attitudinal, environmental and institutional barriers	Disabled People's International
Interactional model	Recognises that disability should be seen as neither purely medical nor purely social, as people with disabilities can experience problems arising from the interaction of their health condition with the environment	WHO's International Classification of Functioning Disability and Health (2001); UNCRPD (2006)

Source From the authors

2.2 The UNCRPD on the right to work

The UN Convention on the Rights of Persons with Disabilities and its optional protocol (OP) were adopted in December 2006 and entered into force in May 2008. The CRPD is the first legally binding international document to address disability as a human rights issue, rather than a medical, charity, or social welfare issue. The implementation of the convention is monitored via the Committee on the Rights of Persons with Disabilities, which consists of 18 experts.

Countries that also signed the Optional Protocol allow the Committee on the Rights of Persons with Disabilities to receive requests from individuals, or groups of individuals, relating to the non-observance of their rights. Belgium and Sweden have ratified the convention and the protocol; Bulgaria and Poland have ratified the convention but not the protocol (although Bulgaria did sign the protocol in 2008).

Article 27 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) *'recognizes the right of persons with disabilities to work, on an equal basis with others; this includes the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities'*. Furthermore, the CRPD prohibits all forms of employment discrimination, promotes access to vocational training, promotes opportunities for self-employment, and calls for reasonable accommodation in the workplace, among other provisions. State Parties will take steps to promote the realization of the right to work, including for workers who acquired a disability during the course of employment. For the full text of article 27, we refer to the addendum.

The main elements of article 27 refer to prohibiting discrimination and ensuring accessibility in all aspects of the employment process and work conditions, as well as actively promoting and supporting employment opportunities.

2.3 Application in the European Union

The European Union already formally ensured equal rights for people with disabilities in labour relations before the CRPD was implemented. Article 26 of the European Charter of Fundamental Rights, adopted in 2000, states that *'the EU recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community'*. The Charter also prohibits any discrimination on the basis of disability. More significantly, the Council Directive 2000/78/EC of 27 November 2000 (henceforth: the Employment Equality Directive) established a general framework for equal treatment in employment, including measures of positive action and towards providing reasonable accommodation at the workplace. Reasonable accommodation is defined as *'any change to a job or a work environment that is needed to enable a person with a disability to*

apply, to perform and to advance in job functions, or undertake training'. Employers have to provide reasonable accommodation to the extent that doing so would not impose a disproportionate burden to the employer. Refusal to provide reasonable accommodation is defined as discrimination. The EU distinguishes four main types of reasonable accommodation, namely technical solutions (e.g. adapting premises and equipment), working arrangements (e.g. patterns of working time, teleworking, relocation), training measures and awareness raising measures (e.g. towards co-workers).² All the Member States have transposed the Employment Equality Directive into national legislation.

The Employment Equality Directive did not give a definition of disability, and as a result Member States defined the group of persons entitled to protection from discrimination in different ways. The European Court of Justice (CJEU) picked up on this and provided a first definition in its first ruling on the matter, the case of *Chacón Navas* in 2006 (Ferri & Lawson, 2016). In *Chacón Navas*, the CJEU defined disability as '*a limitation which results in particular from physical, mental or psychological impairments and which hinders the participation of the person concerned in professional life*'. Furthermore, it must be probable that the limitation will last for a long time. This definition was criticized for ignoring the role of the interaction with the environment, and was adapted in later rulings to be more in line with the CRPD. Since the *Kaltoft* ruling of 2014 the CJEU defines disability as a long-term limitation '*which results in particular from physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers*'.

In 2010, the European Commission adopted the European Disability Strategy 2010-2020. Complementary to national effort to implement the CRPD, the European Disability Strategy provides a European-wide framework that reflects the CRPD values and orientation. The main aim of the Strategy is 'to empower people with disabilities so that they can enjoy their full rights, and benefit fully from participating in society and in the European economy, notably through the Single market'. The strategy is aimed at 8 main areas: accessibility, participation, equality, employment, education and training, social protection, health, and external action. With regard to employment, the strategy explicitly aims to enable more people with disabilities to work in the regular economy.

The European Disability Strategy had a first implementation phase in 2010-2015. With regard to employment, this first implementation phase mainly focused on: increasing knowledge on the employment situation of people with disabilities; optimizing the Europe 2020 strategy for jobs and growth for the benefit of people with disabilities (thus mainstreaming disability in other strategies); persuading potential employers to employ people with disabilities; to also pay attention to the transition from education to employment and to address intra job mobility; to address job quality and career advancement; and finally to fight disability benefit cultures, further develop active labour market policies and tackle benefit traps.

² <https://ec.europa.eu/social/main.jsp?catId=1473>.

3 | Legislative frameworks in selected countries

In the following sections, we give a country-by-country overview of the national employment and (re)integration policies for people with disabilities in Belgium, Bulgaria, Poland and Sweden. For each of these countries we discuss in which way disability is defined and assessed in the policy framework, which are the existing compensation measures, how equal rights are safeguarded and promoted in the workplace, and what active labour market policies are in place for persons with disabilities.

3.1 Belgium

Belgium is a federal state with three language-based ‘communities’ (Dutch-speaking community, French-speaking community and German-speaking community) and three territorial ‘regions’ (Flemish Region, Walloon Region, and Brussels-Capital Region). Competencies are shared between the federal state, the regions and the communities.³ In this paper, we will only discuss the competencies at the federal and the Flemish level.

3.1.1 Assessment of disability

Belgian legislation includes different definitions of disability. Although the terminology from the UN Convention is included in laws and regulations, a medical model remains dominant in most definitions. (UNIA CRPD committee report; GRIP committee report 2019).

In the decree on the Flemish Public Employment Service (PES), the VDAB, legislators speak in terms of work disability (*arbeidshandicap*). This is defined as *‘every important and longstanding problem of participation in working life, due to the interaction of impairments of a mental, psychological, physical or sensory nature, limitations in the performance of activities and personal or external factors’* (Samoy, 2013, p. 5).

A set of criteria providing a possible indication of work disability has been developed. At least one of the following criteria needs to be met to be the target group of compensatory policy measures.

- recognition as a disabled person by the Flemish Agency for the Disabled;
- the highest level of education obtained has been obtained in a special school;
- eligibility for a disability allowance;
- certification of a permanent incapacity for work by way of a court decision or a decision of the appropriate federal administration;
- eligibility for a prolonged or increased disability-based child allowance;
- eligibility for an invalidity benefit;
- certification of a disability by a medical doctor, a service or an organisation recognized by the VDAB.

In the terminology of the PES, work disability is one type of the broader issue of work limitations.⁴ A second type of work limitation are psychosocial problems. This includes for example persons with a history of addiction, persons who are not allowed by their partner to leave the house, who have

³ Beside the federal government, each region and each community has its own government, but the governments of the Flemish Region and the Flemish Community have been merged.

⁴ <https://www.vdab.be/arbeidshandicap/watishet>.

financial debt problems, are in long-term unemployment, etc. An important element to the definition is the requirement for work adaptations in order to help finding and keeping employment.

The antidiscrimination law of 10 May 2007 has a broader definition of disability, and does not require setting a certain percentage of impairment or work incapacity to be recognized as a person with a disability, as is common in the legislation of the social insurance legislation (Centrum voor gelijkheid van kansen en voor racismebestrijding, 2011).

3.1.2 Compensation measures

Employees of the private sector that became incapacitated for work due to health reasons, can receive sickness benefits during maximum 1 year. After one year, they change to invalidity benefits (Samoy, 2013). These are calculated as a percentage of the previous gross wage.

Any person between the age of 21 and 65 with a physical or mental disability who is incapacitated for work for up to 2/3 of the earning power of someone with no disability, can receive an income-replacing benefit (*IVT: Inkomensvervangende tegemoetkoming*).⁵ There are three categories of the IVT, depending on the family situation of the beneficiary (with dependants, single or in cohabitation). The amounts of these benefits range between 619.35 € and 1 255.22 € per month.

Adults (21-65 years) with a disability who have severe difficulties in their day-to-day functioning can also receive an Integration allowance (*IT: Integratietegemoetkoming*).⁶ There are different categories, depending on the gross family income and the disability. The amounts of the integration allowance range between 105.99 € and 918.57 € per month. The right to receive the income-replacing benefit or the integration allowance is not linked to the willingness to start employment, and both benefits can be accumulated (Hardonk et al., 2013; DG Personen met een handicap, 2019). However, these benefits are linked to maximum income limits, and may therefore lead to a benefit trap. For both the IVT and the IT, the disability must be confirmed by a doctor of the Federal Department for Persons with a disability (DG Personen met een handicap, 2019). For the integration allowance, the disability is evaluated on a scale relating to self-reliance (with regard to mobility, household tasks, communication, personal care, responsibility), and for the income replacing benefit, it is evaluated on a scale relating to earning power.

Persons with disabilities can also benefit from the general unemployment benefit schemes or the residual and means-tested welfare benefits. All these schemes contain activation elements, the benefits may for instance be extended to people undergoing vocational training or combined with income from work. Incapacitated public sector employees can use the early retirement system. This is the only benefit scheme without activating elements (Samoy, 2013).

According to Hardonk et al. (2013), the small difference between these benefits and the usually low wages creates an inactivity trap for persons with a disability. Furthermore, because the income-replacing benefit and the integration allowance are means-tested, people who start working could lose this benefit.

The above-mentioned benefits are all at the level of the Belgian state. At regional level additional systems exist. In Flanders, persons with disabilities can receive extra assistance from the Flemish Agency for Persons with a Disability (VAPH). The personal assistance budget (PVB) is an individual budget for persons with a disability to finance personal care and assistance. Receiving this budget is linked to another disability assessment by a panel of medical, psychological, physiotherapists, and social experts, as well as one representative of people with disabilities (VAPH, 2019).⁷ The VAPH also offers compensation for assistive devices needed in the private sphere. Assistive devices needed for the workplace do not fall under the responsibility of VAPH, but of VDAB (the Flemish PES).

5 <https://handicap.belgium.be/nl/mijn-rechten/inkomensvervangende-tegemoetkoming.htm>.

6 <https://handicap.belgium.be/nl/mijn-rechten/integratietegemoetkoming.htm>.

7 <https://www.vaph.be/persoonlijke-budgetten/pvb/aanvragen>.

3.1.3 Protection of equal rights and positive action

The Belgian antidiscrimination law bans discrimination in hiring and in many other aspects of the labour relations on the grounds of a disability or health. Not providing reasonable accommodation for persons with a disability is included as a form of discrimination. According to Samoy (2015), this antidiscrimination legislation did not lead to any concrete improvement for people with disabilities when it comes to labour market participation.

The federal administration has to meet a quota of 3% disabled people among the workforce and is obliged to provide reasonable accommodation in the recruitment process and in the workplace. For municipalities and provinces there is a quota of 2% among the workforce. In practice, these quota rather represent a target figure more than a real obligation. There are no real sanctions, and when they exist they are not always applied. According to Samoy (2015), the introduction of these quota did not lead to an increase of employees with a disability.

3.1.4 Active labour market policies

Employment policies for persons with disabilities are a mix of policy measures belonging to the competency of the federal state (e.g. anti-discrimination law, quotas for federal civil servants, disability benefits), the regions (e.g. special placement agencies, wage subsidies) or the communities (e.g. vocational training, sheltered work) (Samoy, 2013). Broadly speaking, compensation measures are in the field of the federal policies, whereas active labour market policies fall under the competence of the regions and communities (Samoy, 2015).

The Flemish Government's direction between 2014-2019 has been to prioritize work in the regular economy, with an important role for wage subsidies and individual support (individueel maatwerk) (Samoy, 2015a). The Flemish decree on individual support (maatwerkdecreet) regulates the policy of sheltered economy, but also focuses on the transition or the vocational integration of persons with disabilities into the regular economy (Jacobs & Lamberts, 2014). Furthermore, organizations in the regular economy can install sheltered divisions within their company, and would receive subsidies when there are at least 5 FTE employees with disabilities who are employed on a continual and sustainable way.⁸

In Flanders, persons with disabilities can turn to the Flemish Public Employment and Vocational Training Service (VDAB) for vocational rehabilitation and supported employment measures. Here, they can access the general assistance or more specialized assistance for person with work disabilities. The help offered includes: screening and guidance, assistance and training concerning recruitment procedures, vocational training, access to trainers, assistance and training concerning career paths and adaptation of the work environment (United Nations Committee on the Rights of Persons with Disabilities, 2013). The VDAB offers activation programmes for persons with a medical, mental, psychological, psychiatric, or social impairment who are temporary but not permanently incapacitated to work. The programmes last between 3 and 18 months and consist of a combination of employment oriented actions and healthcare assistance aimed at preparing for employment.⁹ The individual programme is planned by the unemployed person, together with two case managers (one focusing on employment, one on care assistance). The case managers use the framework of the WHO's International Classification of Functioning. The role of the case manager focusing on assistance is always assigned to an organization. They also have to pay attention to the rights and needs of the participant.

Through the VDAB, disabled job seekers can also turn to two specialized services when looking to apply for work. The specialized mediation team (*GTB: gespecialiseerd team bemiddeling*) is an external non-profit association that guides about 10 000 job seekers with a work disability or health issue.¹⁰ The GTB helps in finding relevant trainings, workshops, and internships in order to find a suitable

⁸ <https://www.socialeconomie.be/collectief-maatwerk>.

⁹ <https://www.vdab.be/werk-en-zorg/activeringstrajecten>.

¹⁰ <https://www.gtb-viaanderen.be/werkzoekenden>.

employment to the individual's needs. The specialized training-, coaching- and mediation service (GOB: *gespecialiseerd opleidings-, begeleidings- en bemiddelingsdienst*) also offers specialized help for people with a work limitation. The consultants offer guidance in the search for work (coaching, training, internships) as well as support and guidance on the workplace. The latter consists of a consultant evaluating the needs for adjustment and coaching the employer and co-workers of the person with a disability. The GOB services are implemented by several external non-profit associations.¹¹

People with a work disability are entitled to special employment measures such as interpreter services for the hearing-impaired, compensation for workplace adaptation, or reimbursement of travelling expenses. Self-employed persons with a disability also have the right to receive these supporting measures.¹²

Employees with a work limitation are also eligible for free job coaching, as long as the employer agrees to the programme. The job coach supports the employee on the workplace during a maximum of 6 months, in order to ensure well-being at the workplace as well as the ability to perform well at work.¹³

Employers in Flanders who recruit (or have recruited) a person with a disability are eligible for wage subsidies (the Flemish Support Bonus, FSB). This subsidy is intended to compensate any extra costs and lower productivity that the disability could entail. The basic scheme is a subsidy of 40% of the labour costs during the first year, 30% during the second, and 20% in the third, fourth and fifth. In certain exceptions, the subsidy may be raised to a maximum of 60%. Self-employed person with a disability can also apply for the bonus for themselves, and have a separate scheme¹⁴ (Samoy, 2013). However, civil society and UNIA have questioned the effectiveness of the FSB. Specific problems mentioned are the complexity of the system, unfamiliarity of the topic with employers, the fact that several groups are not eligible for a FSB, that a FSB-application involves extensive red tape and there is not enough focus on reasonable accommodations. (UN CRPD 2019 submission by GRIP list of issues prior to reporting; UNIA 2014)

Finally, employers can also receive a subsidy of up to 15 000 euros when they develop a career and diversity plan (*LDP: loopbaan- en diversiteitsplannen*). This plan should contain concrete actions tailored to the organisation, in order to answer to specific needs or aims of the organisation. This measure prioritizes actions aimed at immigrants, persons above 50 years old, persons with a work disability, and low-skilled youth.¹⁵

3.2 Bulgaria

3.2.1 Assessment of disability

The Bulgarian Integration of People with Disabilities Act of 2005 defines a person with permanent disability as a *'person who, as a result of an anatomical, physiological or mental impairment, has permanently reduced capacities to perform activities in the way and at the level of a healthy person and for whom the medical assessment authorities have estimated a level of reduced working capacity of 50 and more percent'* (Bulgarian Helsinki Committee, 2017). Note that the source of the disability is only found in the physical impairment, and not in the interaction with the environment.

In 2018, a new people with disabilities act was passed in Bulgaria which included a more comprehensive individual assessment, based on a self-assessment by the person with disabilities about their activity limitations, degree of impeded functioning, degree of social inclusion and the person's

11 <https://www.vdab.be/arbeidshandicap/gob.shtml>.

12 <https://www.vdab.be/arbeidshandicap/maatregelen#vraag-378>.

13 <https://www.vdab.be/werkinzicht/jobcoaching.shtml>.

14 Translation from Dutch via the webpage Werk.be, <https://www.werk.be/online-diensten/vlaamse-ondersteuningspremie-vop>.

15 <http://www.jobentaalcoaching.be/loopbaan-en-diversiteitsplan>.

mobility in the social environment. The new law also provided for new specialized departments at the Agency for Social Assistance (Bulgarian News Agency, 05.12.2018).

3.2.2 Compensation measures

Every person with more than 50% reduced capacity to work (based on his/her diagnosis) is entitled to a disability pension. The pension is granted for the entire period of the disability and is not dependent on employment status. Besides this 'general illness' pension, two other systems exist for specific situations where the loss of the capacity to work occurred while fulfilling civil duty (the civil disability system) or military service (the military disability pension).

The disability pension for general illness is allocated to those who have paid social insurance contributions for a particular length of time before the disability occurred. The pension is calculated on the basis of the length of paid insurance contributions and on the degree of disability.

On top of these pensions, the Social Assistance Agency also provides disability benefits connected to certain special needs, such as telecommunication, health care and transport. These are commonly defined as a percentage of the guaranteed minimum income (GMI) (in 2018, this was BGN 75). The amount of the received supplement is higher for persons with a higher degree of disability, expressed in a percentage point. Persons with a degree of disability below 50% do not receive disability pensions or supplements.¹⁶

The average monthly amount of the disability pension in 2018 was BGN 248 (EUR 124) and the average amount of the social disability benefits was BGN 173 (EUR 86) (Alliance for Protection against Gender Based Violence, Bulgarian Centre for Not-for-Profit Law, Centre for Inclusive Education, Centre for Independent Living, & Validity Foundation – Mental Disability Advocacy Centre, 2018). A reform of the welfare law at the end of 2018 saw an increase in the financial support for persons with disabilities, where the amount of the financial support is linked to the poverty line. The reform also led to the introduction of an individual needs assessment, a planned personal assistance scheme for people in need, and a new agency for people with disabilities (Child Protection Hub for South East Europe, 27.12.2018).

3.2.3 Protection of equal rights and positive action

Denial of providing reasonable accommodation at the workplace has been included as a form of discrimination in the Bulgarian framework since the Protection from Discrimination Act in 2004 (European Union Agency for Fundamental Rights, 2018). The legislation also defines the 'construction and maintenance of an inaccessible environment' to be direct discrimination. This legislation is enforced by the Protection from Discrimination Commission, which has the powers to receive, investigate and rule on complaints filed by individuals. Individuals can also file complaint with the Ombudsman, who can make proposals and recommendations for reinstatement of the violated rights and freedoms, as well as mediate between individuals and the administration (Bulgarian Helsinki Committee, 2017).

Furthermore, Bulgaria has quota for employing persons with disabilities. In the Labour Code of 1987, it was stipulated that employers with 50 or more employees are required to annually determine jobs suitable for people with disabilities of 4 to 10 percent of the total number of employees, depending on the type of economic activity. However, according to Panayatova (2008) these quota requirements were not controlled and employers were not sanctioned.

In the new Disability Act, enacted in December 2018, new quotas were formulated together with a sanctioning measure for employers that do not meet them. Since January 2019, employers are required to hire disabled workers according to the following quota:

¹⁶ <https://ec.europa.eu/social/main.jsp?catId=1103&langId=en&intPagId=4434>.

- employers with 50 to 99 employees: 1 permanently disabled person;
- employers with 100/100+ employees: 2% of their average number of personnel.

Employers that fail to meet these obligations are obliged to pay a monthly compensation of 30% of the minimum monthly Bulgarian salary for each vacant position for a permanently disabled worker.¹⁷ Employers are exempt from these requirements under certain conditions: if there are specific factors in the work environment that preclude the recruitment of permanently disabled people, if no candidates have applied, or if employers are already applying alternative employment measures for permanently disabled people.¹⁸

3.2.4 Active labour market policy aimed at integration

The Bulgarian government has adopted several plans to improve the labour market integration of persons with disabilities and the rights of persons with disabilities in general (Bulgarian Helsinki Committee, 2017). The national strategy for persons with disabilities (2016-2020) reflects the European Disability Strategy and identifies employment and job opportunities in an integrated work environment as the biggest challenge in the policy for people with disabilities. The strategy also recognizes that more measures should be put in place to encourage employers to hire people with disabilities.

Any person seeking employment should register in the Labour Office Directorate of the Employment Agency as an unemployed person. In other words, employment services for persons with disabilities are integrated in the PES. The Labour Office offers the following services:

- information and/or consultation on: their rights and obligations under the Employment Promotion Act; vacancies and the requirements for their occupation; opportunities for participation in programs and measures for employment and training; the possibilities of changing the profession and working outside the boundaries of the place of residence; terms and conditions of work in other countries under intergovernmental agreements and through the European Employment Services Network (EURES);
- psychological support;
- motivating active labour market behaviour and targeting appropriate employment and training programs and measures;
- basic training for adults;
- assignment and support for starting work, including in another location in the country or in other countries.

The Labour Office Directorates provides a labour mediator who specifically works with disabled people and provides them with mediation services for finding an appropriate job (Employment Promotion Act). Bulgaria also introduced a model for continuing mentoring and support of people with disabilities after finding employment.

Unemployed persons can receive information and consultation on opportunities for participating in training programmes at the Labour Office of the Employment Agency. The National Action Plan for persons with a disability 2016-2020 formulates training and retraining as a sub-priority with the aim to achieve better employment conditions. Some of the measures the government intends to take include determining the types of activities that can be performed by people with disabilities depending on their disability, building training centres, adapting existing training centres, and encouraging employers to conduct training and retraining courses for people with disabilities.

¹⁷ <https://www.lexology.com/library/detail.aspx?g=ee7093be-2bc4-43b3-99e2-f82cd87d0832>.

¹⁸ <https://www.tmf-group.com/en/news-insights/articles/2019/march/bulgaria-new-people-with-disabilities-act/>.

Training is currently organized in accordance with the specific characteristics of the unemployed as well as with the identified needs in accordance to the professions of the employers, which can reveal jobs positions for the persons subject of the program (2019 National Program for employment and training of people with permanent disabilities).

Training can be organized as:

- motivational training for acquiring skills for active behaviour on the labour market and labour realization;
- training to acquire and improve key competences;
- training to acquire professional qualifications in accordance with the possibilities of the persons subject to the program and the needs of the employers.

Employers are obliged to provide reasonable accommodation for the persons with disability unless the expenses for it are unreasonably high (Bulgarian Helsinki Committee 2017; Bulgaria, Integration of Persons with Disability Act, art.24). Employers applying these workplace adaptations can apply for project funding from the Agency for Persons with Disabilities (APD). Linked to this funding is the obligation to hire persons with permanent disabilities for at least 3 months after the end of the funding period (Bulgarian Helsinki Committee 2017; Integration of Persons with Disability Act, art. 25).

The Agency for Disabled People provides grants to people with disabilities to start up and develop their own business. Grants to beneficiaries are up to BGN 20,000 (10,226 euro).

Finally, employers who hire a disabled person can apply for wage subsidies through several programmes. The Employment Promotion Act provides for compensation of wages and social and health insurance contributions for employers that hire previously unemployed persons with permanent disabilities. Employers hiring unemployed persons with permanent disabilities who are younger than 30 years and who are in their employment for a minimum of 18 months, can receive these compensations during a maximum period of 9 months. Employers hiring unemployed persons with permanent disabilities (of any age) during at least 12 months, can receive these compensations during a maximum period of 6 months.

3.3 Poland

3.3.1 Assessment of disability

The Polish system has two main different assessment systems, one specifying the degree of disability, and one deciding on the (in)capacity to work (Radlinska, Bazydło & Karakiewicz 2014; Office of the Human Rights Defender, 2014). These assessment systems are based on two acts: the Act on rehabilitation and the Act on pensions.

The Act on social and vocational rehabilitation and on employment of persons with disabilities defines disability as a 'permanent or temporary inability to fulfil social roles due to permanent or long-term impairment of the body's capacity, causing in particular being unfit for work'. A certificate of disability specifies one of the three degrees of its severity, ranging from low and moderate to significant. This certificate is granted by district and provincial disability evaluation boards.

The Act on retirement and disability pensions from the Social Insurance Fund provides for a certificate of partial or complete incapacity for work or of complete incapacity for work and independent living. This Act recognizes that a person is (fully or partially) unfit for work *if a person has fully or partially lost the ability to work for compensation due to impairments of the bodily capacity and has no potential to regain the ability to work following retraining*. The certificate is issued by medical experts.

The implementation of the CRPD in Poland is monitored by the Polish Office of the Human Rights Defender, the Polish human rights body. It has criticised the lack of a uniform assessment

system for disability, as well as the definitions and terminology that are used in policy regarding disability. The two-tiered system complicates the legal situation of persons with disabilities. In addition, both definitions are based on the medical model and neglect the interaction with barriers that exist in society. The assessment focuses only on dysfunctions and neglects the potential of persons with disabilities. Furthermore, the definition used in the pensions act suggests that persons holding this assessment cannot be employed at all (Office of the Human Rights Defender, 2014; United Nations Committee on the Rights of Persons with Disabilities, 2015).

3.3.2 Compensation measures

Persons who have been found partially or completely unable to work as a result of their health are entitled to a disability pension. The amount of the minimum benefits amounts to a minimum of PLN 1 000 per month (234.90 €) for those with a full incapacity for work, and minimum PLN 750 (176.20 €) per month for those with a partial incapacity for work. The amount is depending on the years previously worked. Persons who became incapacitated for work as a result of an accident at work or an occupational disease receive 20% more. In 2016, the monthly average disability pension amounted to PLN 1 616.46 (378 €).¹⁹ Beneficiaries are allowed to work, however there is an income limit from which the pension is reduced or even suspended. In order to receive a disability pension, someone must have been in employment (or equivalent, such as unemployment benefits) while the work incapacity occurred. Persons who are entitled to a disability pension cannot be registered as unemployed. The assessment of the work incapacity is made by an evaluating doctor and medical commissions of the Polish Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, ZUS*).

Persons that meet the requirements for a disability pension can also receive a training pension, if they are not able to work in their earlier practiced profession and need vocational retraining. The pension is awarded for a period of 6 months, but the period can be extended by 30 months. The amount of the training pension is calculated as 75% of the disability pension calculation basis (1 000 PLN or 750 PLN; equivalent to 234.90 € and 176.20 €), at a minimum of 750 PLN per month. In 2016, the average monthly amount of the training pension was PLN 2 783.96 (650.82 €). On average 72 persons each month received this pension. The training pension cannot be combined with an income from employment.²⁰

Vocational rehabilitation benefits are in-kind or cash benefits and are based on having a certain degree of disability, and aim to support day-to-day functioning (Radlińska et al., 2014).

Persons with a disability can also receive unemployment benefits. For this, it is sufficient to be registered as a job seeker at the public employment agency. These benefits are flat rate amounts.

There is a requirement for participation in rehabilitation or ALMPs to obtain extension of sickness benefit.

3.3.3 Protection of equal rights and positive action

The Commissioner for Human Rights²¹ is the Polish ombudsman and the national human rights institute. The Commissioner is independent from other state authorities. All persons subject to the Polish law, both Polish citizens and foreigners, and stateless persons, have the right to apply to the Human Rights Defender for assistance in the execution of their rights and freedoms which have been violated by public authorities.²²

The implementation of the EU employment equality directive firstly introduced the term of reasonable accommodation into the Polish legal order after it became a Member State in 2004, with the

19 <https://www.zus.pl/documents/10182/167615/Social+Security+in+Poland/71ffe1b1-c142-48fa-a67b-0c7e1cec6eb6>.

20 <https://www.zus.pl/documents/10182/167615/Social+Security+in+Poland/71ffe1b1-c142-48fa-a67b-0c7e1cec6eb6>.

21 Previously the office referred to itself as the 'Human Rights Defender'.

22 <http://www.equineteurope.org/Commissioner-for-Human-Rights>.

Act of 3rd December 2010 on the implementation of some regulations of European Union regarding equal treatment. Just as in the EU directive, the obligation to provide reasonable accommodation remained limited to the field of employment. The Act on Rehabilitation obliges the employer to ensure reasonable accommodations for those persons with disabilities that work for the employer, are in the recruitment process, or that participate in training or an internship. Employers that fail to ensure reasonable accommodation have to pay a compensation to the person whose right to equal treatment was violated (Office of the Human Rights Defender, 2014; United Nations Committee on the Rights of Persons with Disabilities, 2015).

A quota system exists for government employment. Public offices that employ less than 6% of persons with disabilities have to give priority to persons with disabilities in recruitment. This rule does not apply to managerial positions in local self-government units (United Nations Committee on the Rights of Persons with Disabilities, 2015).

3.3.4 Active labour market policies

Persons with disabilities can receive assistance in training for work and social communication from the public authorities. They can also use the PES and are entitled to specific support. The policy framework also provides an accommodation of working hours, and the working time of a person with a severe or moderate degree of disability cannot exceed seven hours a day and 35 hours a week.²³ While persons with disabilities can use the main PES, supported employment and vocational rehabilitation services are not integrated in the PES ('mainstreamed') but are available through individual projects. Vocational and social rehabilitation in the form of services or activities, such as activity-based therapy, is mainly organized by NGO's. The majority of such activities are financed in the form of short-term projects under tenders (Office of the Human Rights Defender, 2014).

The main agency financing vocational and social rehabilitation is the State Fund for Rehabilitation of the Disabled Persons (PFRON). PFRON funds services such as job coaching (Scaratti *et al.*, 2018; EASPD, 2016), workstation adaptations, and vocational rehabilitation programmes (Office of the Human Rights Defender, 2014). PFRON distributes its funds to local governments ('poviats'), NGO's, and directly to employers that hire persons with disabilities or to self-employed persons with disabilities. The employment office and employers can receive financing for organizing training courses for persons with disabilities.

Local governments redistribute these funds mainly to individuals for rehabilitation purposes. To a lesser extent, organizations and other entities working with persons with disabilities can also receive funds via the local government (Office of the Human Rights Defender, 2014). PFRON also co-funds the creation and operation of vocational activity establishments. These establishments promote employment of persons with disabilities, and prepare them for independent, self-sufficient and active living through vocational and social rehabilitation. Activities take place in workshops according to personalised plans. The establishments must provide health care, counselling and rehabilitation, and operate on a non-profit basis (United Nations Committee on the Rights of Persons with Disabilities, 2015).

Employers can receive a refund from PFRON for each adapted workstation. This applies both to employers with employees whose disability occurred during employment, as to disabled job seekers that were registered and referred by a labour office, and were employed by that employer for at least 36 months. These refunds amount to the equivalent of 20 times an average wage. Business owners with a disability, or persons with disabilities managing an agricultural farm, are entitled to co-financing of up to 50% of the interest of the bank loan needed to continue the said activity government (Office of the Human Rights Defender, 2014).

²³ http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=98405.

At an individual level, disabled persons can receive co-funding for rehabilitation equipment, assistance measures, so-called ‘rehabilitation camps’ and the removal of barriers related to architecture, communication and transportation. However, individual support by PFRON is income-related and the financing is only available to those persons that meet an income criterion. The value of the funding is also limited to a maximum amount (Office of the Human Rights Defender, 2014).

The Act on Vocational and Social Rehabilitation specifies a system of wage subsidies to encourage employers to hire disabled people. Employers who hired an unemployed person for intervention works for six months, are entitled to the partial refund of wage costs and social insurance fees of up to 70%.²⁴ Employers that continue to employ this person for another six months and then continue to employ the person on a full-time bases, can receive a single refund of the wage costs (United Nations Committee on the Rights of Persons with Disabilities, 2015).

3.4 Sweden

3.4.1 Assessment of disability

The Act concerning support and service for persons with certain functional impairments (LSS) defines persons with disabilities as:

1. persons with intellectual disabilities and people with autism or conditions similar to autism;
2. persons with significant and permanent intellectual functional disabilities following brain damage as an adult;
3. persons, who as a result of other serious and permanent functional disabilities, which are clearly not the result of normal ageing, have considerable difficulties in everyday life and great need of support or service.

In the Discrimination Act, disability is defined as ‘permanent physical, mental or intellectual limitation of a person’s functional capacity that as a consequence of injury or illness existed at birth, has arisen since then or can be expected to arise’.

The Swedish Work Environment Authority describes disability as an interaction between a certain functional impairment with its environment: ‘Disability describes the limitation a functional impairment entails for a person in relation to the surroundings. Disability is, in other words, impediments that need to be removed in the work environment so that persons with activity limitations can also function at work’.²⁵

3.4.2 Compensation measures

Several compensation measures exist. The activity compensation is intended for persons with disabilities under 30 years that have a disability where it is likely that they will be unable to work full-time. The sickness compensation is intended for those that have a permanent full (all ages) or partial (for those older than 30) incapacity for work. Both benefits are calculated as a percentage of the previous wage. For persons who have never worked before, there are fixed amount that are age-related. Persons receiving sickness or activity compensation have the opportunity to work without losing their compensation. The Government has reinforced resources in order to increase the opportunities for a transition to work for persons with a disability.²⁶

²⁴ http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=98435&p_country=POL&p_count=1342&p_classification=08&p_classcount=152.

²⁵ <https://www.av.se/en/work-environment-work-and-inspections/an-accessible-work-environment/>.

²⁶ <https://www.regeringen.se/49bbec/contentassets/2cb458dc109d4b85be427b0972a8f35e/swedens-initial-report-under-the-convention-on-the-rights-of-persons-with-disabilities>.

Other allowances are intended to reimburse expenses persons with disabilities may have as a result of their disability, and which aim to improve integration.

Persons that receive an activity compensation or a sickness compensation can receive a housing supplement of max. SEK 5 220 (for singles; 494.05 €) or SEK 2 610 (cohabiting; 247.04 €) per month.

The disability allowance (*handikappersättning*) is intended for those who have been disabled for at least 1 year, are between 19 and 65 years old, and need help in their everyday life or in order to work or study, or have additional expenses due to their illness or disability. The amount is calculated as a percentage of the made expenses.

The assistance allowance is granted by the Swedish Social Insurance Agency, and is intended for those who need help with basic needs for more than 20 hours per week as a result of a major and permanent disability. Any person included in the LSS can apply for assistance. An individual assessment of the need is made for each form of assistance applied for. Alternatively, persons with disabilities not covered by the LSS can receive help with personal assistance from their municipality, under the Social Services Act.

The vehicle allowance helps those with a permanent disability that makes it difficult to move by themselves or to use public transport. The allowance is granted as a fixed basic allowance (max. SEK 30 000 (2 800.51 €) and either an acquisition allowance or the actual cost of the vehicle adaptation.

3.4.3 Protection of equal rights and positive action

According to the Discrimination Act, an employer may not discriminate against someone with a disability that is employed, is inquiring about or applying for work, is applying for or performing an internship or is performing work as temporary or borrowed labour. Inadequate accessibility and the failure to take measures for accessibility are included as a form of discrimination. The Act specifies that *‘a person with disability is disadvantaged through a failure to take measures for accessibility to enable the person to come into a situation comparable with that of persons without this disability where such measures are reasonable on the basis of accessibility requirements in laws and other statutes, and with consideration to the financial and practical conditions, the duration and nature of the relationship or contact between the operator and the individual, and other circumstances of relevance’*.²⁷ Reasonable accommodations must be implemented so that a person with a disability achieves a comparable situation to persons without such a disability.

Furthermore, the Discrimination Act stipulates that employers have to work on active measures in order to pursue prevention and promotion work aimed at preventing discrimination. This means investigating the existence of any risks of discrimination or obstacles to equal rights, analysing the causes of these risks and obstacles, taking the prevention and promotion measures that can be reasonably demanded, and monitoring and evaluating the measures taken. This is a continuous process and measures should be implemented as soon as possible.

There are no quota for employing persons with disabilities. The Swedish Disability Rights Federation mentions that while the government has targets for gender balance and diversity among state employees, for persons with disabilities there is only a program offering limited work internships and not real jobs (The Swedish Disability Rights Federation, 2018).

3.4.4 Active labour market policies

The Swedish system has four different responsible authorities for persons with disabilities: the PES, the social insurance agency, social services, and health care authorities. According to Boman, Danermark, & Bolling (2008), this counteracts an individual based support, as the organization’s own needs and interests steer the choice of support offered.

²⁷ <http://www.do.se/other-languages/english/discrimination-act/>.

Persons seeking work in the sheltered economy can find this in the Swedish Samhall AB agency. At the end of 2017, the Swedish government decided to increase funds for Samhall AB, also in order to create more transitions outside of the company (Regeringskansliet, 2018).

The PES co-operates with the social insurance office and with municipalities and county councils. The social insurance agency provides persons with disabilities with various types of financial assistance, helping them to integrate in society.²⁸

Persons with disabilities can find work in the regular economy through the PES. There they will find individually adapted support when applying for a job, support in taking part in activities (such as a sign language interpreter), and general guidance in the transition to the workplace. The PES is also responsible for conducting vocational rehabilitation in the form of initiatives focusing on guidance, investigation, rehabilitation or preparation for work (CRPD Committee). The PES has staff with specialist competences in the field of work-oriented rehabilitation, such as employment advisors, psychologists, physiotherapists, social consultants, occupational therapists, deafness consultants, and more.²⁹

Furthermore, the state, through the PES, is also responsible for helping people to retain jobs.³⁰ Employees with disabilities can receive various forms of assistance from the Government. The Government has increased the amount available for support for vocational assistive devices as well as support for personal assistance, both for employees and for business owners (CRPD state report).³¹

Employers, employees and self-employed people can receive a remuneration for occupational aids and adapting the workplace to allow continuation of work (*arbetsläpmedel*).³² The maximum amount of such a grant is SEK 50 000 (4 667.06 €).³³

Employers can receive financial compensation to help persons with disabilities through personal assistance at work (*bidrag för personligt biträde*). The personal assistant helps with certain repetitive tasks or work situations where the person needs assistance. This is intended to improve job retention, and to facilitate participation. Self-employed persons with disabilities can also obtain a grant for personal assistance. The maximum grant is SEK 60 000 (5 599.80 €) per year for employers and 120 000 (11 199.60 €) for self-employed persons with a disability that causes significant communication difficulties.

Job seekers with disabilities can receive individual support before and during a period of employment by a person known as a SIUS consultant. This job coach service ('Special introduction and follow-up support for the disabled') exists in Sweden since 1996 and is a part of the PES. The SIUS consultant has special competence in introductory methodology, and can help the job seeker get in touch with employers (job matching and -acquiring), help introduce the job seeker to the workplace (work introduction with support), and is responsible for ensuring that the employee with a disability receives the support that was agreed on (follow-up support). The SIUS consultant does follow-up visits to the workplace, and the PES conducts an assessment to evaluate if there is a need for additional support or technical aids. This can also mean that in some cases, the consultant works alongside the client for a while. The support is gradually decreased until the client can perform the tasks of the job independently. The support before starting employment is known as the introductory period, and can last a maximum of 6 months. The job seeker continues to receive the same compensation as before.³⁴ The follow-up support lasts for 1 to 3 years after starting employment (Spjelkavik, 2012).

28 <https://sweden.se/society/swedens-disability-policy/>.

29 <https://arbetsformedlingen.se/other-languages/english-engelska/stod-och-ersattning/for-dig-med-funktionsnedsattning>.

30 <https://sweden.se/society/swedens-disability-policy/>.

31 <https://www.regeringen.se/49bbec/contentassets/2cb458dc109d4b85be427b0972a8f35e/swedens-initial-report-under-the-convention-on-the-rights-of-persons-with-disabilities>.

32 <https://arbetsformedlingen.se/other-languages/english-engelska/stod-och-ersattning/for-dig-med-funktionsnedsattning>.

33 <https://arbetsformedlingen.se/other-languages/english-engelska/stod-och-ersattning/stod-a-o/hjalpmedel-pa-arbetsplatsen>.

34 <https://arbetsformedlingen.se/other-languages/english-engelska/stod-och-ersattning/stod-a-o/sarskild-stodperson-for-introduktions-och-uppfoljningsstod--sius>.

Another model of supported employment is the Individual Placement and Support (IPS) model for people with mental health difficulties. The IPS job coach is based in psychiatric institutions (as opposed to in the PES) and the support of the IPS consultant is not limited in time (Spjelkavik, 2012).

Finally, employers of workers with disabilities are entitled to a wage subsidy of up to 80% of the wage, depending on the degree of disability. Employers can benefit from this subsidy for up to four years (Scharle & Csillag, 2016).

The Swedish Disability Rights Federation reports that there has been a small increase in the budget for financial support to employers and supported employment which has resulted in higher compensation per person, but not to more persons in employment (The Swedish Disability Rights Federation, 2018).

4 | Cross-country comparison

In evaluating the legislative frameworks outlined in the previous chapter, we start by delineating the framework we will apply. Firstly, the human rights framework requires us to critically assess the definition of disability which is used in the policy language, as this delineates, and maybe limits the group to which the policy applies, as well as the possible answers to the problems faced by this group.

Article 27 of the CRPD contains several elements to which we can position the existing policy frameworks (see addendum in appendix 1 for the full article). The first paragraph of the article starts as followed (emphasis added):

*1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to **gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.** States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps [...].*

Based on this, we identify three main elements:

1. Work freely chosen or accepted. This is reiterated in the second paragraph of the Art.27, which stated that:

*2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are **protected, on an equal basis with others, from forced or compulsory labour.***

For the purpose of this analysis, we will specifically consider the income-replacement people with disabilities receive, and whether it allows them the economic agency to freely choose a job as well as keep certain benefits while working.

2. An open and inclusive labour market and work environment. More specifically, we examine the policy measures aimed at prohibiting discrimination, protecting equal opportunities, and affirmative action measures. Four items of the first paragraph of article 27 clarify this aspect.³⁵

*a) **Prohibit discrimination** on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;*

*b) Protect the rights of persons with disabilities, on an equal basis with others, to **just and favourable conditions of work**, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;*

*g) Employ persons with disabilities in the **public sector**;*

³⁵ Item c refers to equal rights pertaining to labour and trade union participation. As this falls beyond the scope of this report, we did not include it here.

*b) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include **affirmative action programmes, incentives and other measures.***

3. That is accessible to persons with disabilities. Accessibility is a wide concept, which includes access to vocational rehabilitation programmes, assistance in finding employment, support in maintaining a job, support for reasonable accommodation measures. The CRPD specifies six items that we relate to this element:

*d) Enable persons with disabilities to have effective **access to general technical and vocational guidance programmes, placement services and vocational and continuing training;***

*e) Promote **employment opportunities and career advancement** for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;*

*f) Promote opportunities for **self-employment, entrepreneurship**, the development of cooperatives and starting one's own business;*

*i) Ensure that **reasonable accommodation** is provided to persons with disabilities in the workplace;*

*j) Promote the acquisition by persons with disabilities of **work experience in the open labour market;***

*k) Promote **vocational and professional rehabilitation**, job retention and return-to-work programmes for persons with disabilities.*

4.1 Persons with disabilities

Article 1 of the CRPD states that '*[p]ersons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others*'. The European Court of Justice defined disability in the 2014 Kaltoft ruling as a long-term limitation '*which results in particular from physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers*' (Ferri & Lawson, 2016). Both of these definitions have the element of interaction between a personal impairment and social barriers. Before this 2014 ruling, the European Court of Justice adopted a definition that did not yet include the element of interaction, the so-called Chacón Navas ruling.

In practice, many definitions at national level still reflect the outdated Chacón Navas approach and contain only three elements: (1) the existence of an 'impairment', (2) which hinders professional or day-to-day life and (3) which is long-term ((Ferri & Lawson, 2016). This approach is reflected in the Polish, Swedish and the previous Bulgarian discrimination legislation. The Belgian antidiscrimination act made the choice to not provide a definition, so as to avoid any restrictive interpretation.

All countries but Bulgaria have different definitions depending on the area of application. In the previous Bulgarian definition, a medical model prevailed until the new act that passed in December 2018, which places more importance on social inclusion and external factors. In Belgium, Poland and Sweden a different definition exists for qualifying for compensation benefits (partial or full work or earnings capacity reduction) and qualifying for rehabilitation and employment support. In the latter, a more inclusive definition with attention to the interaction with the environment is used in Belgium and Sweden. The Polish definitions do not contain this interactional element.

Table 4.1 Definitions of disability

	Area of application	Definition of disability
Belgium	Employment and rehabilitation (Flemish region) + personal assistance budget *similar in other regions	'Every important and longstanding problem of participation in working life, due to the interaction of impairments of a mental, psychological, physical or sensory nature, limitations in the performance of activities and personal or external factors.'
	Antidiscrimination legislation	No definition is given, but it is understood as an interaction between an impairment and the environment.
	Compensation benefits	Incapacitated for work for up to 2/3 of the earning power of someone with no disability.
Bulgaria	Compensation benefits + rehabilitation and employment	Person who, as a result of an anatomical, physiological or mental impairment, has permanently reduced capacities to perform activities in the way and at the level of a healthy person and for whom the medical assessment authorities have estimated a level of reduced working capacity of 50 and more percent. (Since 2019: an individual needs assessment based on self-assessment, limitations, inclusion, mobility and other.
Poland	Rehabilitation and employment	A 'permanent or temporary inability to fulfil social roles due to permanent or long-term impairment of the body's capacity, causing in particular being unfit for work'. (to a low, medium or significant degree).
	Compensation benefits	'If a person has fully or partially lost the ability to work for compensation due to impairments of the bodily capacity and has no potential to regain the ability to work following retraining'.
Sweden	Personal assistance allowance	Persons with intellectual disabilities and people with autism or conditions similar to autism. Persons with significant and permanent intellectual functional disabilities following brain damage as an adult. Persons, who as a result of other serious and permanent functional disabilities, which are clearly not the result of normal ageing, have considerable difficulties in everyday life and great need of support or service.
	Work environment	Interaction between functional impairment and environment
	Compensation benefits	Partial or full incapacity for work
	Discrimination act	'Permanent physical, mental or intellectual limitation of a person's functional capacity that as a consequence of injury or illness existed at birth, has arisen since then or can be expected to arise'.

Source From the authors

In general, definitions as to what constitutes a threshold for work or earning incapacity vary largely between countries. Similarly, the job capacity assessment teams are predominantly medical (Bulgaria pre-2019, Poland, Belgium for compensation benefits).³⁶ With regard to issues on vocational rehabilitation and supported employment, there seems to be a tendency towards a more inclusive assessment with more emphasis on the role of the environment (Belgium, Poland, Sweden).

Definitions differ as well with regard to the duration of the impairment. While the CRPD and the European Court of Justice speak of a long-term impairment, some national definitions are limited to a permanent limitation or permanently reduced capacities (Bulgaria pre-2019, the Swedish discrimination act). This is therefore not in line with a human-rights approach, as it does not recognize the evolving nature of disability.

³⁶ No data found for Sweden.

Table 4.2 Disability benefits Belgium, Bulgaria, Poland and Sweden

	Benefits	Combinable with employment?	As % of national minimum wage ³⁷
Belgium	Income replacement benefit	Yes, but income limit	38.9% - 78.8%
	Integration allowance	Yes, but income limit	6.7% - 57.6%
	Personal assistance allowance	Yes	NA
Bulgaria	Disability pension	Yes	Average 44.3%
	Disability supplements (transport, medicine, communication, home adaptation)	Yes, depending on degree of disability (as % of work incapacity)	NA
Poland	Disability pension	Yes, but income limit	Average 72.3%; Min. 33.7% or 44.9%
	Training pension	No	NA
Sweden	Activity compensation	Yes	NA
	Sickness compensation	Yes	
	Disability allowance	Yes	
	Assistance allowance	Yes	
	Vehicle allowance	Yes, additional grant for those under a certain income limit	
	Occupational aids	Yes	

Source From the authors

4.2 Gain a living by work that is freely chosen or accepted

In order to be able to freely choose a job, it is a precondition that the option exists of not choosing a certain job as well. Similarly, when there is a risk of losing a certain benefit because of starting employment, this could also impede the decision of starting employment.

For most disability benefits, it is technically possible to receive an income from employment and continue receiving the same benefits. However, in Belgium and Poland there is an income limit for the disability pension. This could lead to a benefit trap, where the economic advantage to work is not large enough.

4.3 ... in an open and inclusive labour market and work environment

Countries use a mix of incentives to encourage employers to hire persons with disabilities. These incentives can be positive (wage subsidies) or negative (sanctions for not meeting quota).

In all four countries, employers can receive a wage subsidy for employing persons with a disability. However, there are differences in how long the period of wage compensation lasts. In the Flemish region of Belgium, employers can be reimbursed for up to 40% (or 60% in certain exceptions) of the labour costs, during a maximum of five years. The reimbursement rate decreases every year. Sweden offers a wage subsidy of up to 80% of the wage during a maximum of four years. On the other hand, Bulgaria's and Poland's period of compensation does not exceed one year. In Bulgaria, employers receive a compensation during a maximum of 6 months, or 9 months when they hired someone under 30 years of age. In Poland, employers receive a partial refund (max. 70%) during the first 6 months they employed a person with a disability, and a full refund during the next 6 months. This extended period of subsidy can motivate employers to provide a sustainable employment position for someone with a disability, as opposed to a short-term contract.

³⁷ As found on: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_mw_cur&lang=en for Belgium (1 593.81 € per month), Bulgaria (286.33 €) and Poland (523.09 €). There is no national minimum wage in Sweden.

Table 4.3 Quota for employees with disabilities

	Quota	Sanction
Belgium	2-3% (public sector)	-
Bulgaria	1 FTE (50-99)/ 2% (100+)	Monthly compensation of 30% of minimum wage per vacant position
Poland	6% (public sector)	2.40% of payroll ³⁸
Sweden	-	-

Source From the authors

Quota in the private sector only exist in Bulgaria, for employers with more than 50 employees. Not meeting the quota leads to a sanction of 30% of the minimum wage per position that was not filled by a person with a disability. In Belgium and Poland, the quota only refer to the public sector. In Belgium, no real sanction exists on not meeting this quota, and the effectiveness of this measure is questioned. Sweden does not have quota for people with disabilities. The Swedish Disability Rights Federation mentions that while the government has targets for gender balance and diversity among state employees, for persons with disabilities there is only a program offering limited work internships and not real jobs (The Swedish Disability Rights Federation, 2018).

4.4 ... that is accessible to persons with a disability

Rehabilitation and specialized mediation services are integrated in the public employment services in Belgium, Bulgaria and Sweden. In Poland, rehabilitation is mainly organized via project funding for NGO's, faith-based organizations or local governments.

In Sweden and Belgium, job seekers can get more intensive and individualized support in finding and keeping work. In Belgium, follow-up job coaching can last a maximum of 6 months, and the employer needs to agree to the program. In Sweden, the SIUS ('special introduction and follow-up support') consultants provide support in the job matching and entry phase (6 months) as well as the follow-up phase (1 to 3 years). The system also exists for persons with mental health disabilities, but this is not limited in time.

With regard to public spending on rehabilitation for persons with disabilities, Eurostat data provides another interesting insight. Figure 4.1 shows rehabilitation expenditure per inhabitant in Purchasing Power Standard in the four countries, between 2008 and 2016. The figure suggests that Sweden has consistently invested significantly more on rehabilitation than the three other countries. This could mean two things: Sweden has a more expensive policy, or it has more beneficiaries (which would also indicate a successful policy) driving up the total spending.

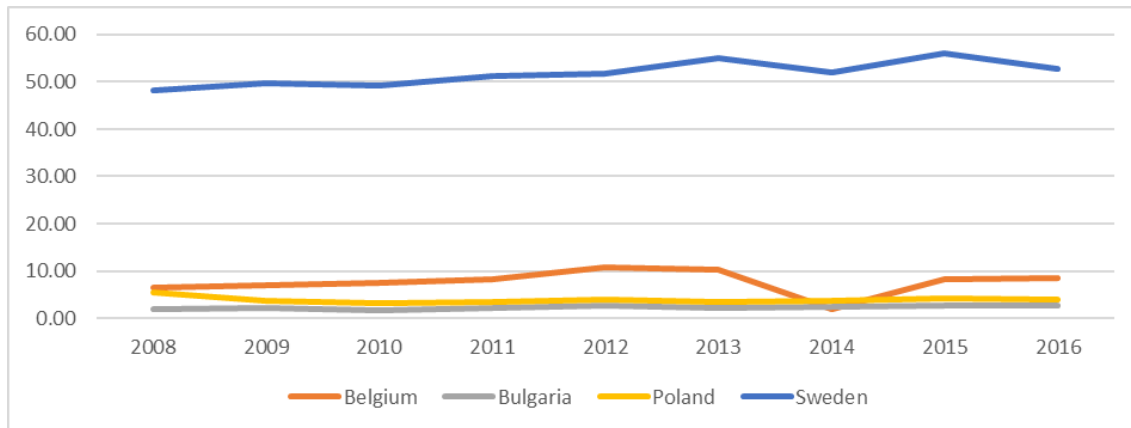
³⁸ Source: OECD (2003, 2006 and 2007) as found on <http://www.oecd.org/social/soc/38196029.pdf>.

Table 4.4 Employee oriented measures

	Support (financial or as personal assistance) for labour market integration	Vocational rehabilitation services	Employment services integrated in PES?
Belgium	Special employment measures such as interpreter services for the hearing-impaired, compensation for workplace adaptation, or reimbursement of travelling expenses.	Via PES, also other specialized services (GTB and GOB) Free job coaching at work (max. 6 months)	Yes, with specialized assistance
Bulgaria	Disability benefits connected to certain special needs with regards to social inclusion, such as telecommunication and transport.	Via PES	Yes, with specialized mediation services
Poland	Co-funding for rehabilitation equipment, assistance measures, removal of barriers (architectural, transport, communication).	Via NGO's, local governments or short-term tendered projects	No
Sweden	Disability benefits connected to certain special needs with regards to social inclusion and adaptation, such as housing, personal assistance, adapted vehicle, or other expenses. Employees can receive personal assistance at work and a remuneration for occupational aids.	Via PES, SIUS consultant throughout the process In psychiatric institutions: Individual Placement and Support consultants	Yes, with individually adapted support

Source From the authors

Figure 4.1 Public spending on rehabilitation (Purchasing power standard (PPS) per inhabitant); Eurostat Social protection expenditure disability function



Source Own handling of [spr_exp_fdi]

Employers can also receive a compensation for providing reasonable accommodation in Bulgaria, Poland and Sweden. In most cases this is designed as a reimbursement (partial or full) of made expenses. In Bulgaria, this funding is linked to the obligation to employ the person for whom the accommodations are financed during at least 3 months after the end of the funding period. In Sweden, employers can also receive a compensation for providing personal assistance at work to aid in certain tasks. Persons with a disability who are self-employed can also apply for compensation measures in all four countries.

5 | Conclusion

The right of people with disabilities to decent work in the open labour market was included in the United Nations Convention on the Rights of Persons with Disabilities in 2006. However, this right for disabled persons is frequently denied through direct or indirect (discriminatory) barriers. ‘People with disabilities, particularly women with disabilities, face enormous attitudinal, physical and informational barriers to equal opportunities in the world of work’.³⁹

In this paper, we reviewed the legislative framework for labour market integration of people with disabilities in four countries: Belgium, Bulgaria, Poland and Sweden. While there are important differences regarding labour market integration among these countries, a gap exists between the employment rate of people with no working disability and people with a working disability in all four countries. There are many economic arguments for improving the employment rate of people with disabilities, and more generally to promote increased diversity in the labour market. In this paper however, we focus on the individual right to decent work and apply a human rights framework. In reviewing the legislative framework, we discussed four elements of national policy frameworks: the ways in which disability is defined and assessed; the compensation measures that are in place to financially support people with disabilities; how equal opportunities are ensured in the labour market; and the active labour market policies targeted towards people with disabilities.

In a human rights approach, disability is defined as the outcome of the interaction between a long-term impairment (physical, psychological or mental) and barriers in the social environment. A functional limitation in itself does therefore not necessarily lead to a disability. In the CRPD disability is defined in the following way: ‘*disability is an evolving concept and [...] results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others*’. (UNCRPD, 2006, p. 1).

The European Union established a general framework for equal treatment in employment with the Employment Equality Directive in 2000. This Directive did not give a definition of disability, but left it to the European Court of Justice to provide an interpretation in its jurisdiction. A first attempt by the ECJ at defining disability was adopted in a labour law case in 2006, the Chacón Navas case. This approach was later criticized for leaning too much towards a medical model of disability, and a new definition was adopted in later rulings. Most recently, the ECJ defined disability in the 2014 Kaltoft ruling as a long-term limitation ‘*which results in particular from physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers*’ (Ferri & Lawson, 2016). Just like in the CRPD this definition included the element of interaction between a personal impairment and social barriers.

We see that this European legislation trickled down to national legislations, for example, with regard to the obligation of providing reasonable accommodation in the workplace. The refusal to do so, is seen as a form of discrimination in all four countries.

Other aspects of the framework are less streamlined among the four countries we reviewed. Firstly, the way in which disability is defined differs between countries, and even within countries between different policy areas. Only Bulgaria recently adopted a new legislation with one single definition for all policy areas. Moreover, many of these definitions reflect an outdated approach of the ECJ’s interpretation of disability in the Employment Equality Directive instead of the most recent, CRPD-

³⁹ <https://www.ilo.org/global/topics/disability-and-work/lang--en/index.htm> retrieved on August 23d, 2018.

coherent definition. The Belgian antidiscrimination legislation stands out in that it does not provide a definition of disability. Many national definitions related to compensation benefits also include a threshold to define partial or full incapacity for work (or similarly; reduced income-earning capacity). These approaches seem inflexible and do not keep in mind the uncertainties of people who start to work with a disability, or that the level of work incapacity is not always stable. For instance, in a research paper on employment barriers for people with disabilities in Sweden, Östlund and Johansson (2018) provide the example of an unemployed person with a neurological impairment who can only work 10 hours a week on average, but will only receive support from the employment service from at least 17 hours a week.

Secondly, in the four countries almost all benefits were combinable with employment, but Belgium and Poland have an income limit which in practice could lead to a benefit trap, or at least could become a barrier. Losing the rights to such benefits due to being in employment seems to be in contradiction with the right to work.

Thirdly, all four countries have wage subsidies for employers that hire people with disabilities, yet there are large differences in the amount and the duration of these subsidies. In Sweden and Flanders (Belgium) these subsidies can last up to four or five years, as opposed to only 6 months to a year in Poland and Bulgaria. Employment quota are only used in Bulgaria and in the public sector in Belgium and Poland.

Fourthly, there are differences in the way countries organise vocational rehabilitation and employment support. Sweden has the most developed programme, with the SIUS job coaching programme where consultants support job seekers with an extended follow-up period of up to three years after starting employment. Belgium (Flanders) has a slightly similar personal job coaching system, but with a maximum of 6 months follow-up support phase.

A rights-based approach would also require analysing specific groups of people with disabilities, such as women or ethnic and cultural minorities. For instance, in Sweden six out of ten people with work disabilities who have been granted wage support are men (*Government offices of Sweden* (2018)). Finally, it should be considered that many policy measures do not always reach the people that could benefit from them, for various reasons. For instance, Halvorsen and Hvinden (2014, p.38) reveal that policy measures aimed at improving opportunities for people with disabilities in the workplace could not reach their full potential, due to people not wanting to explicitly identify themselves as having a disability:

'The legal opportunity for Norwegian public-sector employers to favour job applicants with disabilities requires that the applicant state that they have a disability in the first place. However, youth with mobility and sensory impairments and youth with mental health problems reported that their overwhelming concern was to be considered as non-disabled [...]. While openness about disabilities, impairments or sickness could be seen as desirable, the interviewees considered it too risky due to the anticipated level of prejudices and/or stereotypical images among employers.'

These considerations strongly point to the importance of a broader cultural acceptance towards diversity in all areas of social life, for example: education, culture, housing, public space, or work. It is clear that progress in the area of employment opportunities is linked to progress in these other parts of society. In addition, more research in how policy translates to practice is crucial in developing the understanding of which barriers persist, and how they can be overcome.

appendix 1 Addendum

a1.1 Article 27 of the UN Convention on the Rights of Persons with Disabilities: Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:
 - (a) prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
 - (b) protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
 - (c) ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
 - (d) enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
 - (e) promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
 - (f) promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
 - (g) employ persons with disabilities in the public sector;
 - (h) promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
 - (i) ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
 - (j) promote the acquisition by persons with disabilities of work experience in the open labour market;
 - (k) promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

a1.2 Overview of relevant acts and institutions concerning the employment rights of persons with disabilities in Belgium⁴⁰

Acts	
Flemish decree stipulating proportionate participation in the labour market. (2002)	Prohibition of discrimination on the basis of (among others) disability in all labour relations (labour mediation, recruitment, selection, promotion, dismissal, vocational training and guidance, career guidance). The actions provided for include the formulation of diversity plans by enterprises, local administrations and other employers in the business and non-business sectors. Enterprises are invited to draw up targets in terms of entry, transition, training and retention, notably of persons with vocational disabilities, to plan related actions and to submit reports in this regard
Royal Decree of 5 March 2007 on the recruitment of persons with disabilities to the federal administration	Quota of 3% of FTE for persons with disabilities for federal administration The Federal Administration Selection Bureau (Selor) organizes reasonable accommodations in respect of selection and recruitment procedures, language testing, internal mobility and career management
Decision of the Flemish Government of 24 December 2004 on diversity and equal opportunities policy in the Flemish administration	Target figure of 2% of FTE for persons with disabilities at the Flemish administration measures to support the employment of persons with disabilities (such as subsidized wages and technical support)
Act of 4 August 1996 on welfare in the workplace	Employers, who are responsible for the welfare of employees, must take preventive measures to avoid situations of risk and to avoid or limit injuries. These measures relate in particular to the adaptation of the workplace, the design and adaptation of workstations, the selection and use of work equipment and of personal protection equipment, and so forth
Act of 10 May 2007 on combating certain forms of discrimination	General framework on combating discrimination
Flemish decree on work and care programmes (25 April 2014)	This decree provides for activation programmes for persons with work disability
Flemish decree on the framework for the Flemish equal opportunities and equal treatment policy (10 July 2008)	Addition to the decree of 2002, with the application extended to housing, transport, and other areas. Another explicit mention of refusing reasonable accommodation as a form of discrimination.
Institutions and agencies	
Flemish Public Employment Service: VDAB	The Employment Agency is responsible for coordinating and developing labour-market policy in general, including the employment of disabled people
Federal Centre for equal opportunities and opposition to racism (Unia)	Belgian human rights institute and national equality body. Holds class B accreditation by the International Coordinating Committee (ICC) of the international association of National Human Rights Institutions (NHRIs). This means the institution is not fully in compliance with the Paris Principles. ⁴¹
General Directorate for Persons with Disabilities of the Federal Agency for Social Insurance	Pays disability benefits (IVT & IT)
Flemish Agency for Persons with a disability	Grants budgets and financial assistance to persons with a disability

⁴⁰ Based on UN Committee on the Rights of Persons with a Disabilities (2011), Samoy (2015).

⁴¹ The six criteria of the Paris Principles relate to (1) a broad mandate and competence, (2) autonomy from Government, (3) independence guaranteed by statute or Constitution, (4) pluralism, (5) adequate resources, and (6) adequate powers of investigation. See also: <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf>.

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