
Regulating the Employment of People with Disabilities – Does the strict quota system bring real results?

Fogyatékosok munkáltatásának szabályozása – Valós eredményt hoz-e a szigorú kvótarendszer?

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Abstract

According to the Act on Promoting Employment (IV of 1991) employers of all segments of economy are obliged to pay rehabilitation fee in case the average number of their employees is above 20 and the ratio of employees with disabilities does not reach 5%. The amount to be paid has been significantly changed from 177 600 HUF/year to 964 500 HUF/year as of 1st of January, 2010 in order to raise efficiency. A lot more companies have decided not to pay the rehabilitation fee rather employ people with disabilities than it was expected. Last year instead of employing more than 84 thousand the fee was paid. This ratio has significantly fallen in the first quarter of 2010: after only 19 thousand employees have the companies paid the rehabilitation fee. My research discovers how agricultural and food industry companies have reacted to the increased rehabilitation fee. Does the decrease in the amount of fee paid mean increase in the employment of people with disabilities? What solutions do companies have in place?

Keywords: disability, employment, quota system

A foglalkoztatás elősegítéséről szóló 1991. évi IV. törvény alapján, a munkaadók a nemzetgazdaság valamennyi szektorában rehabilitációs hozzájárulás fizetésére kötelesek, ha az általuk foglalkoztatottak átlagos létszáma a 20 főt meghaladja, és az általuk foglalkoztatott megváltozott munkaképességű személyek átlagos létszáma nem éri el a létszám 5%-át. A fizetendő összeg jelentősen megemelkedett 177 600 Ft/év-ről 964 500 Ft/év-re 2010. január 1-jétől a hatékonyság növelése érdekében. A várakozásokhoz képest sokkal több cég döntött úgy, hogy nem fizet az idén rehabilitációs hozzájárulást, hanem helyette megváltozott munkaképességűeket foglalkoztat. Tavaly több, mint 84 ezer fő foglalkoztatása helyett fizették meg a hozzájárulást. Ez a szint a 2010. első negyedéves adatok szerint a töredékére esett: mindössze 19 ezer megváltozott munkaképességű alkalmazott helyett fizettek a cégek rehabilitációs hozzájárulást. Kutatásom azt vizsgálja, hogyan reagáltak a mezőgazdasági és élelmiszeripari cégek a megemelkedett rehabilitációs díjra. Vajon

a kevesebb fő után fizetett összeg valós növekedést jelent-e a megváltozott munkaképességű munkavállalók körében? Milyen megoldásokkal éltek a cégek?

Kulcsszavak: fogyatékos, munkáltatás, kvóta rendszer

Összefoglalás

Közép és Kelet Európában és így hazánkban is az elmúlt időszakban bekövetkezett gazdasági és szociális változások komoly hatással voltak a fogyatékkal élők társadalomban elfoglalt helyére. A korábbi rendszer – bár közel sem megfelelő módon és indíttatással – biztonságot, kiszámíthatóságot jelentett a fogyatékkal élők számára, ami a változásokkal együtt megszűnt.

A közelmúltban nemzetközi szinten is lényeges változáson ment keresztül a fogyatékkal élők társadalomban elfoglalt helyének megítélése. Világszerte kerülnek felülvizsgálatra a törvénykezési keretek, a fogyatékkal élők támogatására irányuló programok annak érdekében, hogy a fogyatékkal élők társadalomban elfoglalt helyét megváltoztassák, elősegítsék képességeik kiaknázását, támogassák a gazdasági életben való aktív részvételüket.

A hazai fogyatékosügyi törvénykezésre két fő nemzetközi szervezet gyakorol kiemelkedő hatást: az Európai Unió és a Nemzetközi Munkaügyi Szervezet (ILO). Az ezen szervezetek által felvázolt irányok megtartása mellett hazánkban elfogadásra került A foglalkoztatás elősegítéséről szóló 1991. évi IV. törvény. Ennek alapján, a munkaadók a nemzetgazdaság valamennyi szektorában rehabilitációs hozzájárulás fizetésére kötelesek, ha az általuk foglalkoztatottak átlagos létszáma a 20 főt meghaladja, és az általuk foglalkoztatott megváltozott munkaképességű személyek átlagos létszáma nem éri el a létszám 5%-át. A fizetendő összeg korábban 177 600 Ft/év volt, mely a hatékonyság növelése érdekében 2010. január 1-jétől jelentősen megemelkedett 964 500 Ft/évre.

Kutatásom során azt vizsgáltam, hogy a hazai mezőgazdasági és élelmiszeripari vállalatok milyen mértékben tudnak megfelelni ennek a törvényi szigorításnak. Az általam vizsgált 22 cégtől nyert adatok tevékenység, földrajzi elhelyezkedés és méret szerinti elemzése után az alábbi megállapítások fogalmazhatók meg.

A vizsgált cégeknél a törvényi előírás szerint összességében 232 fogyatékkal élő személy számára kellene foglalkoztatást biztosítani. A valóságban azonban mindössze 116 fő megváltozott munkaképességű munkavállalót alkalmaznak ezek a vállalatok. A képet tovább árnyalja, ha figyelmen kívül hagyjuk a már korábban is alkalmazásban lévő és a mostani alkalommal csak bejelentett megváltozott munkaképességű munkavállalók számát. Így a ténylegesen újonnan alkalmazott megváltozott munkaképességű munkavállalók száma 54 főre csökken, mely igen csekélynek tekinthető. Ez felveti a kérdést: vajon a kvótarendszer szigorítása a legmegfelelőbb mód a fogyatékkal élők munkavállalásának elősegítésére? Az általam nyert adatok alapján sejthető, nem. Azt azonban nem szabad elfelednünk, hogy azon

fogyatékkal élők számára, akik évtizedeken keresztül sokszor méltatlan körülmények között, a társadalomtól elzártnak éltek minden lehetőség pozitív előremozdulást jelent.

People with Disabilities – the Biggest Minority of the World

The previous economic and social changes in the Central and Eastern European region had a major impact on the place of people with disabilities in the mainstream society. Previously disability was regarded as a status to be categorized in order to allocate certain benefits. This categorization was based on a medical examination and determined for a lifetime not expecting any changes therefore without any follow up or further checking. This system was based on two major principles:

- people with disabilities fall into exact categories,
- they do not bring any value to the society.

Although this system was not right it brought certainty into the life of people with disabilities being countable and safe. This has stopped together with the changes. Most people with disabilities found the shift to a market economy as a personal disaster. The changes made them vulnerable: in many cases they became outcast or even poor. Although policy makers were aware of the situation mainly could only react with their old solutions: hiding the problems but not solving them.

Recently the perception of the place of people with disabilities in mainstream society has gone through major changes all over the world. Policies, legal frameworks, disability programs are being revised in order to promote the rights of people with disabilities, to help them utilize their capabilities and play an active role in the economy. Around 10% of the overall population has some kind of disability that is approximately 650 million people. Around 470 million people with disabilities are in active age. [4] In Hungary an estimated 640 thousand people with disabilities are in working age. [9]

The topic of equal rights plays a major role in the development of a modern and democratic society. [2] To raise social solidarity it is important to create a supportive legislation system and to act in an economically and politically responsive way.

Legal Framework – international policies, local adaptations

There are two major international organizations having a strong impact on the national legislation of people with disabilities: the European Union and the International Labour Organization.

European Union

One of the fundamental elements of the legislation system of the European Union is the ban of discrimination. To reach its current form it has gone through lots of development through decades. The first document to formulate the thought of a discrimination free world is the Universal Declaration of Human Rights created in

1950. After that many documents addressed the same topic focusing on different aspects of discrimination.

In 1957 the Treaty of Rome was established focusing on the economic aspects formulated common socio-political orders. In 1961 the Social Charta gave an overall clarification on the list of social rights establishing certain charges as well to emphasize the social operation of the participating countries. In 1972 the Closing Declaration of the Paris Summit raised the formulated social action plan to be equally important to the economic and monetary plan. In 1974 the Social Action Program was established creating financial binding. In 1989 the European Charta was created and accepted that contains the basic social rights of employees as well. In 2000 the Nizza Treaty was accepted together with the European Socio-political Schedule that outlined a five year long socio-political program and the EU Charta of Fundamental Rights.

2003 was dedicated as the Year of People with Disabilities. The Madrid Declaration of the year outlined an action plan creating national, regional and local guidelines to tackle disability issues. [8]

International Labour Organization

The International Labour Organization (ILO) is a UN specialised agency dedicated to guaranteeing fair and decent conditions of labour everywhere. The ILO carries out its mission mainly by setting standards through the adoption of international labour conventions and recommendations. The following three areas are highlighted in its operation:

- work health and safety regulations,
- equal rights and opportunities,
- fight against social exclusion.
- Since its foundation in 1919 ILO has passed three fundamental documents determining policies. These are as following ones in chronological order:
 - the Declaration of Philadelphia in 1944,
 - the Declaration on Fundamental Principles and Rights at Work in 1998 and
 - the Declaration on Social Justice for a Fair Globalization in 2008.

The latest declaration promotes the fair way of globalization, offering leaders and policy makers a balanced approach that creates a bridge between ordinary people and successful solutions establishing a common platform for international cooperation bringing social, economic and ecological goals together. For this reason this is outstanding. [3]

Hungary

In the legislation system of Hungary maybe the most important disability law is the Act on the rights of people with disabilities (1998/XXVI). The act declares the rights of people with disabilities, sets orders to promote them and provides legal shelter. The basic rights of people with disabilities according to the law are:

- right to a barrier free and safe built environment,
- right to access public information,
- right to utilize public services,
- equal opportunities to utilize the services of the informational technology providers, and
- right to adequate support services.

In order to promote social integration lots of steps have already been taken. One of the most important steps was the establishment of the Common Memorandum on the social integration.

Based on the Memorandum a National Action Plan was created that formulates the following goals and interventions:

- promotion of employment,
- promotion of access to public services,
- decreasing the level of poverty,
- investment to the future: providing children with welfare,
- fighting social exclusion in all fields. [10]

Following the major principles of the National Action Plan a new Nationwide Disability Program was set up that outlines the priorities for seven years. These are:

- shaping social attitude,
- raising the standard of living,
- active participation in mainstream society,
- rehabilitation.

Apart from the above mentioned legal tools one of the recently most cited laws is the Act on Promoting Employment (IV of 1991). According to this law employers of all segments of economy are obliged to pay rehabilitation fee in case the average number of their employees is above 20 and the ratio of employees with disabilities does not reach 5%. The amount to be paid has been significantly changed from 177

600 HUF/year to 964 500 HUF/year as of 1st of January, 2010 in order to raise efficiency.

This change in the legislation provided a great opportunity to conduct a field research as it created a situation where employers became economically interested in having employees with disabilities.

Research

Agriculture – a possible field for employing people with disabilities

When talking about employment of people with disabilities many people associate it with agriculture (apart from the common stereotypes of blind masseurs and mentally disabled broomstick makers). One of the basic reasons for it is that there are many work therapies in place focusing on close to nature activities. The successes of these therapies are highly published therefore they are commonly known. It is however interesting to investigate whether agriculture serves a good base for non-sheltered employment, too.

In Hungary - as in most of the transition countries – the place of agriculture in the national economy has significantly changed. Between 1990 and 2006 its contribution to the GDP has fallen from 12.5% to 4.3% and its employment rate has decreased from 14.2% to 4.9%. [5] These changes happened partially due to the strengthening of other sectors but also because of the decrease in the agricultural production. In 2009 there were 173 500 employees in the field of agriculture which meant 4.6% of the overall number of people employed that year. [6] Considering the above shown numbers it is easy to understand that any employment restriction affects the sector strongly. It is true to the earlier mentioned raised amount of rehabilitation fee to be paid in case the agricultural employer does not mean the target ratio of employees with disabilities.

At the current phase of my research I investigate how agricultural and food industry companies apply to the legally set employment ratio of people with disabilities. Are they capable of employing “enough” people with disabilities?

Research methodology

To find out the answer to the above mentioned question I conducted a research that was based on two major data sources. In the second half of 2010 I worked up the available macro data from the different statistical data bases and collected primary data in a field research. When designing data collection first I was planning to send a survey to the companies. After checking the effectiveness of this method with three companies I decided to make interviews with the companies in order to get valuable

data. So in the final research I created a semi standard interview to be conducted either in person or via phone call.

The list of companies to be interviewed I put together from different databases (agrárkapu, cylex database, databases of the different associations) as there is not a single database with all required information available at the moment. From the list created at this phase of my research I contacted 33 companies. Out of the 33 companies 4 has already been closed down and 7 appeared to be too small for the scope of the research (as the legal restrictions apply only to companies with 20 employees or above). So the number of companies with adequate data for the research became 22 (N=22). I categorized the companies by field of activities, geographical situation and size.

Results and conclusions

General results

It is quite hard to analyse data in this topic and draw conclusions. Although it is possible to quantify the results by different mathematical and statistical methodologies to interpret the data is rather complicated and brings additional questions. What result can be considered as positive result? When can we say that a piece of legislation has reached its goal? If we start to analyse the macro data the question is also what counts as result? If we take the fulfilment of the budgetary plans as a result we say that not meeting the requirements and not employing people with disabilities is to be considered as result. This cannot possibly be the right approach. If we consider the fees not paid into the Labour Market Fund as a result it refers to the number of people with disabilities employed by the companies. That must be the right approach. However if take into consideration that the Labour Market Fund is established to promote and finance the employment of people with disabilities we can see that lacking financing it is not capable of playing its positive role therefore endangers the financing of successfully running projects that are creating more and more workplaces for people with disabilities. To clear the picture I have taken a look at the budget figures of the government for 2011. [1] As the government is channelling the amount of the rehabilitation fees into the regular income section and not as part of the Labour Market Fund anymore it is highly unlikely that there would be any willingness to spend it exclusively on promoting the employment of people with disabilities. It means that the rehabilitation generated income is not traceable anymore therefore augmenting it cannot be considered as a positive result from the prospective of my research. Based on this in the future I only consider real integrated employment as a result.

My first and maybe most important finding is that only 18.2% of the observed companies meet the legal requirements and has at least 5% of employee rate consisting of people with disabilities. This raises the question: is the restriction of the

quota system the best way to promote the integrated employment of people with disabilities?

At 45.4% of the observed companies they do employ people with disabilities but they do not meet the 5% legal ratio in the overall headcount of the company. In numbers it means altogether 116 employees with disabilities in the 22 observed companies. This number could even be considered as a nice result however it is worth to take a look at what they mean in reality. 36.4% of the companies has already previously employed people with disabilities therefore they simply took the data of their already existing employees and reported them to the authorities. It means there was no real new employment. Only 5 companies put real effort into analysing the existing job descriptions, recruiting, hiring and integrating people with disabilities into their companies. This way 54 people with disabilities were employed. If we compare this number to the legal obligation – that would be 232 employees with disabilities in the case of the observed 22 companies – the number is not so appealing.

Why is there such a gap? Why do companies not employ people with disabilities? Conducting the interviews it became clear that even if there is a will to employ people with disabilities in most cases employers do not understand what kind of jobs could be filled in with people with disabilities. The most cited answer to my question was: „due to the nature of our operation we are not capable of employing people with disabilities”.

Table 1 shows the employment data by field of operation.

Table 1 Employment data by field of operation / Tevékenységi kör szerinti foglalkoztatási adatok

Field of Operation	5% Employment Ratio	Real Employment Ratio	Correspondence Rate
Agricultural production	57	34	59,6%
Agricultural service	52	27	51,9%
Food industry	101	45	44,6%
Mixed	22	10	45,5%
Altogether	232	116	50,0%

Resource: own research data

The impact of the field of operation on the employment ratio of people with disabilities

Following the above mentioned reasoning it is adequate to analyse whether the field of operation has impact on the employment ratio of people with disabilities. I divided the observed companies into the following operational categories:

- agricultural production (9 companies),
- agricultural service (7 companies),
- food industry (5 companies) and
- mixed (1 company).

After analysing the data the followings can be said.

Apart from one company the *agricultural production companies* employ people with disabilities to a certain level. At 4 companies they meet the 5% legal employment ratio which contributes to the almost 60% correspondence rate to the legal requirements.

Out of the 7 *agricultural service companies* only 3 are employing people with disabilities at all. None of these meet the legally required 5% employment ratio. Altogether however the companies of this category have a 52 % correspondence rate to the legal requirements.

Only 1 *food industrial company* employs people with disabilities. Although they have 45 employees with disabilities they do not meet the legally required 5% employment ratio. It is important however to mark that this company earlier has established a daughter company – without any legal obligation – to provide people with disabilities with sheltered employment. When the current legislation came into force they had a decision point whether to integrate the daughter company into the mother company and this way meet the new requirements easily or to keep the daughter company as it was and start integrated employment in the mother company. The integration would have not met the high ethical principles of the company therefore they decided to build up their own employee base even when it meant to pay the rehabilitation fee for a certain amount of time. Although this example is highly positive it contributes only to an overall 44.5% correspondence rate to the legal requirements in the food industry category.

The *mixed profile company* (that is a food industry company covering its raw materials mainly from own production) employs 10 people with disabilities. This means about 45.5% of the legal employment ratio. Very positive however that the company puts great emphasis on keeping all employees that suffer from decrease in work capabilities due to working for the company. They are provided with suitable positions. The company however does not see any possibilities to create further positions for people with disabilities.

Comparing the above shown data it can be said that the employment rate of people with disabilities at the agricultural companies is somewhat higher than at the food industry or mixed profile companies.

The impact of the regional location on the employment ratio of people with disabilities

After analysing the data by field of operation the question raises if the regional location – and with that the economical surrounding – has an impact on the level of employment of people with disabilities. Is it true that on favourable terms companies hire more people with disabilities? At this phase of my research I did not gather data from all regions of Hungary. My data falls into the following regional positioning:

- Southern Great Plain (1 company),
- Central Transdanubia (4 companies),
- Central Hungary (9 companies),
- Northern Hungary (6 companies) and
- Western Transdanubia (2 companies).

Table 2 shows the results of the certain regions.

Table 2 Employment data by regions / Régiók szerinti foglalkoztatási adatok

Region	5% Employment Ratio	Real Employment Ratio	Correspondence Rate
Southern Great Plain	67	45	67,2%
Central Transdanubia	76	42	55,3%
Central Hungary	17	7	41,2%
Northern Hungary	65	22	33,8%
Western Transdanubia	7	0	0,0%
Altogether	232	116	50,0%

Resource: own research data

After analysing the data the followings can be said.

The company located at *Sothern Great Plain* has a 67% correspondent rate to the legal requirement. This is the same company that was mentioned before at the food industry companies that is highly committed company that has already previously supported the employment of people with disabilities. Nevertheless the high performance of the region is rather surprising taking into consideration the economic indicators of the area (the GDP per person is bellow the country average). [7]

The above average employment ratio of the *Central Transdanubia* region formulated by the 4 observed companies is also a bit over the expectations as the economic performance of the region is only average. [7]

The analysis of the data from the *Central Hungary* region provides us with surprising findings. Although the economic performance of the region is – historically – high above the country [7] average the observed companies have only a 41% correspondence rate to the legally required employment ratio.

The data from *Northern Hungary* meets the expectations based on the hard economic situation of the region. [7]

None of the 2 observed companies operating in the *Western Transdanubia* region employ any people with disabilities. Based on the high economic performance of the region [7] it could however have been expected that they meet the legal requirements.

Comparing the above shown data it can be said that the regional situation and together with that the economic surrounding of the companies has no or even inverse influence on the employment ratio of people with disabilities. Due to the low sample size it is not right to draw overall conclusions but a possible explanation to that can be that the companies with better general economic situation can easier afford to pay the rehabilitation fee therefore they do not have to put so much effort into finding a solution to how to employ people with disabilities.

The impact of the company size on the employment ratio of people with disabilities

Analysing the data I made a comparison based on the third grouping criteria – the company size – as well. The categories made by me are the following:

- small: 20-50 employees (8 companies),
- medium: 51-500 employees (11 companies) and
- large: over 501 employees (3 company).

The summary of the data by company size can be seen in Table 3:

Table 3 Employment data by company size / Méret szerinti foglalkoztatási adatok

Size	5% Employment Ratio	Real Employment Ratio	Correspondence Rate
Small	9	3	33,3%
Medium	89	43	48,3%
Large	134	70	52,2%
Altogether	232	116	50,0%

Resource: own research data

After analysing the data the followings can be said.

Small size companies meet the least the legal requirements. 5 out of the 8 do not employ a single person with disabilities.

The *middle size companies* have a 48% correspondent rate to the legal requirements. Is is also important to mark that only 2 companies out of 11 do not employ people with disabilities.

Large companies meet the legal requirements in 52%. On its own it is a rather positive result. It is however surprising that even at this size there is a company that does not employ anyone with disabilities. As it sounded rather odd for me I specifically asked the representative of the company about it. The human resources manager gave me the answer that all the positions that could be filled in by employees with disabilities have already been outsourced. Only the main production processes remained in the scope of the company that require mostly hard physical work or are highly dangerous. This kind of explanation suggests that even the employers themselves are not aware of the legal requirements that refer to people with physical and mental disabilities as well as other impairments.

From the above data it can be seen that with the size of the companies the employment rate of people with disabilities is raising. This can be explained on the one hand by the more differentiated scopes of jobs on the other hand by the increasing amount administration that appears with the bigger sizes. (Traditionally administrative jobs are considered to be more suitable for people with disabilities.) It is important also to keep in mind that with the size the amount of the rehabilitation fee also rises that can reach a significant amount in the budget of a large company.

Overall conclusion, discussion

Seeing the above shown data the question still remains: does the strict quota system bring real results? When it has an overall 18.18% correspondence rate is this the best tool to promote the integrated employment of people with disabilities? Maybe the answer is not. But we should not forget that for people living with disabilities who have been excluded from mainstream society for decades any result is positive.

2010 was the European Year for Combating Poverty and Social Exclusion within the European Union. The above showed impact of the changes in the Hungarian legislation is positive on both aspects of the dedication as on the one hand with promoting the employment of people with disabilities it gives them additional possibilities for earning money on the other hand by integrating them into the world of labour it fosters their overall integration into mainstream society. I hope year 2011 being the European Year of Volunteering brings similar positive changes.

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