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**Input on the on the Relationship between the Realization of the Right to Work and the Enjoyment of All Human Rights by Persons with Disabilities**

**Info Submission**

**To the Office of United Nations High Commissioner for Human Rights**

**Submitted by**

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(Ombudsman) of Georgia**

**December 2020**

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Given high importance and value of realization of the right of persons with disabilities to work, which is directly related to the realization of other fundamental rights, including ensuring that these persons live independently, the Public Defender of Georgia has assessed the implementation of article 27 of the Convention by the State[[1]](#footnote-1) through the monitoring of state employment promotion programs intended for persons with disabilities.

The Office of Public Defender took into consideration state obligation taken under the United Nations International Covenant on Economic, Social and Cultural Rights concerning the right to work while conducting monitoring. However, main emphasis was made to the Article 27 of the UNCRPD, according to which 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 be chosen or accepted on a labour market and work environment that is open, inclusive and accessible to persons with disabilities. The document considers application of temporary mechanisms by States Parties until the declared will is achieved, including positive discrimination, encouragement, support measures and programs, as necessary and temporary intervention. Public Defender took thorough monitoring of exactly those measures/state programs which are taken by the state and are supposed to promote employment of Persons with Disabilities.

After the monitoring, conducted in 2017, the Office of Public Defender of Georgia has actively been working to follow up with the implementation of recommendations reflected in the special monitoring report, by requesting relevant information from the State Agencies and introducing to the changes made to programs, or progress achieved through implementation of existing employment programs. As a result, it can be concluded, that the situation has not changed since the monitoring and in some cases it has even worsened, and the challenges and problems reflected in the report remain to be addressed.

Before going through specific programs, it should be mentioned that according to acting internal legislation, employment of persons with disabilities in the public sector restricts their right to receive a social package,[[2]](#footnote-2) which is given to persons because of their disability status. In addition, in some cases, it hinders realization of the right to receive a social allowance, given to families because of their poor social-economic conditions. The practice of refusing an allowance in exchange for employment in public sector, significantly hinders the realization of employment opportunities and desire of PWDs to be employed. According to official data only 51 persons with disabilities were employed in the Public sector during 2019. 29 persons were temporarily employed in the public sector during the same year.

It should be noted, that persons with similar disabilities employed in the public and private sectors have equal needs and, therefore, their interests to receive a social package are equal. Persons with severe and moderate disabilities are treated differently in similar situations, which is conditioned by their sphere of employment (public and private). Public Defender considers, that there is no legitimate aim for suspension of social package given to a person because of disability for purposes of ensuring equality, just because of employment and additionally depended on the place of employment \_ public or private. Due to this reason, Public Defender is preparing a constitutional complaint in order to solve abovementioned problem.

Implementation of specific employment promotion programs are affected by systemic problems and barriers faced by PWDs in the country. Non-adapted transport and work space are significant barriers for PWDs in terms of going to the office, performing duties and socializing with colleagues. The economic profit received by persons with disabilities as a result of employment, due to extremely low wages, is very low, which together with other additional barriers, makes their labour non-profitable. The problem is well reflected in the statistics: there were overall 113 persons with disabilities employed within all employment promotion programs during 2019.[[3]](#footnote-3)

The latest employment promotion programs are approved by the Government’s decree N665 of December 30, 2019 and aims at developing/implementing the services aimed at promoting employment and active policy of the labour market in the country. The programme includes activities, such as development of the information system of the labour market - www.worknet.gov.ge, individual and group counseling, delivery/development of the intermediation service, vocational counseling and career planning at the municipal level, development and implementation of mechanisms promoting the employment of vulnerable, low-competitive groups, organization of an employment forum to identify professions demanded in the labour market and needed skills and knowledge.

Despite the existence of a number of programs and the State's declared will to ensure employment of persons with disabilities, the right of persons with disabilities to work cannot be properly realized due to the lack of effective mechanisms, safeguards, practical support and enforcement mechanisms. Specific Challenges related to specific programs are given below:

* By May 2020, 10 547 persons with disabilities were registered in the employment portal www.worknet.gov.ge, which is significantly more, then the number registered at the same **portal** in 2017 (3535). However, the number of persons employed remains critically low and amounts to 22 in 2019, no at all By May 2020, while in 2016-2017, the number of persons with disabilities employed with the assistance of the mentioned portal amounted to 161.
* **Supported employment consultants** - group of supported employment consultants envisages training of selected consultants and implementation of various activities, including: to prepare, print and spread information for the purpose of raising awareness of target groups about introduction/delivery of supported employment services. Consultants are playing role of connecting relevant employee with the potential employee with various disability. Considering the existing reality, low number of supported consultants cannot be considered as a sufficient human resource for achievement of effective employment goal. As a result, only 33 person with Disabilities had been employed with the help of supporting employment consultant. By May 2020, the figure amounted only 5 Persons with Disabilities.
* **Subsidization of wages** - program task is to subsidize the wages of the beneficiaries employed in new or existing, including adapted, workplaces with prior consent of the employers, in order to facilitate employment of persons with disabilities and persons with special needs. Wages are subsidized through vouchers and in the amount of 50% of the remuneration for the offered job, but not more than 560GEL per month and no longer than 4 calendar months. It is important that the amount of subsidies made by the state be reasonable in order for the employer to actually be motivated to employ persons with disabilities and take appropriate adaptation measures. Consequently, introduction of the remuneration limit may turn out to be ineffective if there are no additional privileges (e.g. tax exemption) for the employer. Furthermore, after the expiration of the subsidy period, there is no guarantee or effective leverage for the employee to maintain his/her job as the latter depends on the good will of the employer. Due to this reason, the changes were made to the program according to which the employer is obliged to prolong work contract with PWD after expire of subsidiary period not less than for 6 months. However the regulation reduced the number of employers willing to employ PWD. In 2019 only 2 persons were employed within the program, none by the May of 2020, which is significantly low, compared with previous years. After expiration of the subsidization period, 11 persons with disabilities were employed on the basis of a long-term labour contract in 2016 and 22 - in 2017. However, conversation with focus groups made it clear that subsidization is especially actively used in cases of seasonal jobs that last no longer than 4 months. It should be also noted, that one of the components of subsidization program in the previous years was adaptation of the existing working environment. However, the state had not allocated any finances for the required adaptation of workplaces. Public Defender’s recommendation to allocate sufficient funds were not fulfilled by the state and the component of adaptation of workplace within the program had been removed. Workplace adaptation expanses are one of the reasons that demotivate employers to employ persons with different disabilities.
* **Vocational Training and Retraining program** - The aim of the Programme for Vocational Training/Retraining of Job Seekers and Raising their Qualifications is to improve the competitiveness of job seekers through their vocational training/retraining in the professions demanded in the labour market and/or their further internship and to facilitate their employment. The programme provides for additional services for persons with disabilities and persons with special educational needs, which include provision of appropriate services for individual needs of persons engaged in vocational training-retraining and/or internship processes. These services include an assistant, mobility and orientation trainer, sign language interpretation, transportation, which helps to promote and motivate persons with disabilities to be engaged, however, the amount of scholarship paid to persons involved in internship remains quit low and amounts 200 Gel per month. The programs envisages that after termination of internship, an employer is obliged to sign long term employment contract with at least 1 employee with disability. The number of persons employed within the program is also very low. It is important to note that the measures envisaged by the programmes and the abovementioned action plan are somewhat of similar nature and fail to fully consider complex aspects that are significant for promoting employment. Only 16 persons with disabilities employed in 2019 and none by May 2020.

According To persons with Disabilities themselves, the main challenges in the field of employment of persons with disabilities are:

* **Access to physical environment**. The majority of focus group members pointed out that due to the non-adapted physical environment (infrastructure and public transport), persons with disabilities think that “working is not worthwhile". Often the money spent by them on transportation is more than the received payment.
* **Access to information** and the low level of awareness of persons with disabilities. Most of the participants of focus groups have not heard of state employment programmes. In addition, they are in an unequal situation in comparison with the members of the community who can get information or communicate without alternative means (Braille font, gesture language, etc.).
* So-called **discriminatory labour market,** where the willingness and interest of a private employer to take measures for reasonable accommodation are quite low. It should be noted, that recent recognition of refusal to reasonable accommodation as a form of discrimination by internal legislations must be apprised as a step forward that will promote employment of PWDS.
* **The awareness** raising component needs to be strengthened. The majority of persons with disabilities note that private organizations are not interested in the qualifications of a person with disabilities if they know their status in advance. This is due to the strong stigma in the community. The issue of public awareness is also problematic - in case of employment of a person with disabilities, dissatisfaction is sometimes expressed by their colleagues or the persons who have to communicate with them. In most cases, this dissatisfaction is ungrounded and is not related to improper performance of duties by persons with disabilities.
* **Termination of social allowance** in case of employment is a serious problem according to PWDs as well. In case of regular income, the Social Service Agency checks the socio-economic situation of the families of persons with disabilities and in practice terminates social allowance when new source of income is recorded, even in case of low income. Therefore, the majority of persons with disabilities prefer social allowance to unstable labour relations and refuse employment.
* **Termination of a social package** serves as an important demotivator in the employment of persons with disabilities in the public service.
* Employment of persons with disabilities in the public service is related to additional difficulties, as in most cases, they cannot meet the **strict job requirements**. Legislators and public agencies do not take into consideration the obstacles faced by persons with disabilities in getting education or acquiring/raising qualifications. Therefore, they appear in unfavorable situation in comparison with other members of the community.
* Improper realization of the **right to education** is also a hindering factor.
* The **lack of support from local self-governments** for the employment of persons with disabilities is another problem.
* **Low involvement of persons with disabilities in monitoring** of the process of development and implementation of employment programmes is also a problem, which impedes development of efficient and needs-based programmes, on the one hand, and objective assessment of their implementation, on the other hand.
1. Special Report evaluable in English: <https://www.ombudsman.ge/eng/190308061623angarishebi/shshm-pirta-dasaqmebis-xelshemwyobi-saxelmwifo-programebis-monitoringis-angarishi> [↑](#footnote-ref-1)
2. with the exception of persons with first degree disabilities and persons with significant visual impartment [↑](#footnote-ref-2)
3. LEPL STATE EMPLOYMENT SUPPORT AGENCY Letter N05/139 (01.06.2020) [↑](#footnote-ref-3)