With reference to the resolution A/HRC/43/7 entitled “The right to work”, adopted by the Human Rights Council on 18 March 2020, Poland provides the basic scope of protection of work of the persons with disabilities. Both from the level of legal and penal protection, as well as anti-discrimination solutions and the model of the system of rehabilitation and employment of persons with disabilities. At the same time, taking into account the challenges of increasing economic activity of this group of people, further solutions supporting persons with disabilities in this area are designed.

In accordance with Article 65 of the Constitution of the Republic of Poland, everyone is guaranteed the freedom to choose and exercise their profession and to choose their workplace, and the obligation to work can only be imposed by law.

Under Article 189a of the Penal Code, both trafficking in persons and preparations for it are criminal acts. Trafficking in persons is considered a crime, and preparations for trafficking in persons are considered a delinquency. On this basis, the recruitment, transportation, supply, transfer, harbouring or receipt of a person, by means of violence or the threat of unlawfulness, of abduction, of deception, of misrepresentation or of the exploitation of a mistake or of an inability to properly understand the action being taken, of the abuse of a relationship of dependence, of the exploitation of a critical position or a state of vulnerability, is punishable, to grant or accept a financial or personal advantage or a promise thereof to a person having the care or supervision of another person, if the purpose of the action was to exploit that person, even with his or her consent, in particular in prostitution, pornography or other forms of sexual exploitation, in forced labour or services, in begging, in slavery or in any other form of exploitation which diminishes human dignity or for the purpose of obtaining cells, tissues or organs is contrary to the law.

Legal protection on this basis applies to all persons, regardless of their disability. However, increased legal protection concerns minors. It is recognised that when the behaviour of the offender involves a minor, trafficking in persons occurs whenever the effects set out in Article 189a of the Penal Code have been achieved, regardless of the methods or means used by the offender.

The Constitution also protects the right to safe and hygienic working conditions and fundamental workers' rights. Violation of these rights is punishable within the framework of criminal or criminal offence liability. The Penal Code provides for sanctions for offences against the rights of persons performing gainful employment. They apply: malicious or persistent violation of an employee's rights resulting from an employment relationship or social insurance, refusal to perform an ordered re-employment or payment of a benefit, failure to cover the employee with social insurance, violation of occupational health and safety regulations resulting from an immediate danger of loss of life or serious damage to health, as well as failure to document an accident at work or an occupational disease or failure to notify the competent authority of these circumstances. Other abuses have been stylised in the Labour Code as violations of employee rights. They concern, among other things, proper documentation of employment and failure to exercise employee rights (e.g. to pay wages, provide the right to leave, ensure work safety). The identification and prosecution of offences and misdemeanours against the rights of persons engaged in gainful employment and the rights of the employee are intended to prevent the most blatant violations related to the employment of the workforce.

In both cases, persons with disabilities enjoy full criminal law protection on the same basis as other members of society.

In accordance with Article 32 of the Constitution of the Republic of Poland, everyone is equal before the law and has the right to equal treatment by public authorities, and no one may be discriminated against in political, social or economic life for any reason whatsoever. The principle of equal treatment understood as non-discrimination in any way, directly or indirectly, inter alia, on grounds of age, gender and disability, is also implemented in the area of work. It applies both at the job search stage and during employment and covers, for example, access to and use of labour market services and instruments, the establishment and termination of employment relationships, conditions of employment, promotion and access to training to improve professional qualifications. It is ensured by the provisions of the Act on employment promotion and labour market institutions and the Labour Code.

In addition, solutions concerning reasonable accommodation are contained in the provisions of the Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities. On this basis, the employer is obliged to provide the necessary reasonable accommodation for the person with disabilities who is in an employment relationship with the employer, who participates in the recruitment process or who undergoes training, internship, professional preparation or apprenticeship or graduation. The necessary reasonable accommodation shall consist in making such changes or adjustments as are necessary in a particular situation to meet the specific needs of a person's disability as notified to the employer, in so far as such changes or adjustments would not impose a disproportionate burden on the employer.

Violation of the provisions on equal treatment, including failure to provide reasonable accommodations, results in liability for damages.

Poland recognises that ensuring equal treatment and increasing opportunities for persons with disabilities in the labour market is also supported by the lack of barriers. In addition to many years of individual actions to support the removal of architectural barriers or in communication implemented with funds of State Fund for the Rehabilitation of Disabled Persons, in 2019 were introduced the system pro-accessibility solutions. They were provided in the Act on ensuring accessibility for people with special needs and in the Act on the digital accessibility of websites and applications of mobile public entities. Regulations contained in these acts would improve not only to access to information (e.g. information about individual rights or employment rights), but also, for example, to public job offers. They shall also enable persons with disabilities to better operate in the workplace in the public sector.

Equal treatment, reasonable accommodation and accessibility is supported by, among other things, instruments for supporting employers of persons with disabilities provided for in the Act on Vocational and Social Rehabilitation and the Employment of Persons with Disabilities. It includes numerous refunds of the costs of equipment and adaptation of the workplace, work assistance, training of persons with disabilities and work assistants, and wage subsidies related to employment of persons with disabilities. There is also possibility of deducting over 1/3 of payments to State Fund for the Rehabilitation of Disabled Persons for ensuring the accessibility and purchase of production and services, including those related to the adaptation of the workplace or ensuring the accessibility of the working environment to the needs of the persons with disabilities.

Regardless of this, the regulations on recruitment processes in public administration and local government provide for mechanisms favouring the employment of persons with disabilities, if they are among those with the highest results in the recruitment process.

These actions lead to a gradual increase in the rate of economic activity of persons with disabilities, with particular emphasis on women with disabilities, for whom this rate is rising faster than for men with disabilities. In general, however, the level of both indicators is a challenge for the Republic of Poland. That is why, among other things, actions are currently planned to activate professionally inactive groups of disabled people by introducing the instrument of assisted employment. Issues related to the correlation of the right to disability benefits with the reluctance to take up employment by persons with disabilities are also analysed. A serious challenge will also be to maintain the current employment of persons with disabilities in the labour market, which is suffering serious disruption as a result of the current epidemic situation.