

Inclusion of persons with disabilities in the labour market - the Netherlands

Introduction

The Netherlands Institute for Human Rights is the national body to promote, protect and monitor human rights in The Netherlands. It was appointed as the national monitoring body under Article 33.2 of the Convention on the rights of persons with disabilities.

For the Vienna Conference of EU Ombudspersons for Persons with Disabilities on 15/16 November 2018, the Institute drafted the following note on the situation of employment for persons with disabilities in The Netherlands.

Persons with disabilities in employment

Unemployment and labour participation

In the Netherlands, the total working population (15-75 yrs) consists of 9.01 million persons (CBS, 2017). Out of these, 666.000 persons have a disability. Of the persons without disabilities in the working population, 4,5% is unemployed. For persons with disabilities the unemployment rate is 9,6%, more than double that percentage.¹ The net labour participation rate for persons without a disability is 72,5%. For persons with disabilities it is 32,2% (2016). When looking at the different types of disability, data show that in 2016, 21% of persons with minor intellectual disabilities had a paid job, 22% of persons with psycho-social disabilities and 36% of persons with physical disabilities had paid work. The situation has not changed in comparison with previous data collected in 2012.²

The background of the low participation rates has been subject of research. In particular, the situation of young persons with intellectual disabilities has been investigated. One research presented indicators for successfully finding work. Working parent(s), a positive assessment of own work opportunities, having had work in the previous period, work experience, high motivation and following a reintegration process were positive factors.³ A separate study listed a number of interventions for policy makers aimed at increasing the employment rate. These interventions included on the one hand capacity building and support for workers with disabilities by the creation of support for people's own strength, talents and

¹ <https://opendata.cbs.nl/statline/#/CBS/nl/dataset/83322NED/table?ts=1532690497137>

² Report 'Inzicht in Inclusie II' (*Insight in Inclusion II*), College voor de Rechten van de Mens (2018), p. 39. See: <https://mensenrechten.nl/nl/inzichtininclusie>

³ A. Holwerda et al (2012), Wat werkt voor Wajongers? Voorspellers voor vinden en behouden van werk in de Wajongpopulatie. Groningen: Universitair Medisch Centrum Groningen, afdeling Gezondheidswetenschappen/Sociale Geneeskunde.

empowerment; the use of the power of their informal network and involving and mobilizing parents. On the other hand it was advised to set up an early identification and labour market diagnosis; to provide for vocational training and to approach employers, give them proper information and reduce their administrative burden.⁴

Legal instruments

Participation Act

In the 1950s, the first centres for work for persons who were unable to work in regular employment were established. In 1969, the Act on sheltered work (*Wet sociale werkvoorziening, WSW*) was adopted, which aimed at providing an open, inclusive and accessible way for persons with disabilities to participate in society.⁵ Under the responsibility of municipalities, sheltered work companies (SW-companies) provided for work for persons with disabilities. This be seen as a first step towards inclusion in the labour market.⁶ Much of the work was carried out in workplaces of these companies, but employees could also be placed in regular companies under supervision of the SW-company. As a result of this system, regular employers hardly had an incentive to hire workers with disabilities. For workers with disabilities, work in a sheltered environment of an SW-company became the norm.

With the introduction of the Participation Act (*Participatiewet*) in 2014, the Dutch government drastically reformed the WSW. SW-companies are required to assume another role: providing for assistance and coaching of employees in regular companies. New employees are no longer accepted in these SW-companies. They are required to find work in the open labour market. Regular employers are given a wage subsidy for those workers whose productivity is lower than that of other workers. At the same time, job coaches are available for workers with disabilities. On request of an employer, the Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen UWV*) or the municipality provide for adaptation of the workplace. For certain types of workers with severe support needs, the municipality is required to provide sheltered work.⁷ Under this legislation, sheltered work is intended for people who are able to work, but who need such guidance and adaptation of their workplace that an employer cannot be expected to organize this himself. In these cases, the municipality conducts a work ability assessment of the person, on the basis of which he receives an authorization for a sheltered work place. The central government made funds available for municipalities to create

⁴ Van der Loos, Van den Berg en Wever (2012), *Het moet kloppen. Bevorderende en belemmerende factoren voor arbeidsparticipatie van jongeren met een licht verstandelijke beperking*. Amsterdam: UWV.

⁵ L. van der Torre, M. Fenger (2018) *Comply or defy? Managing the inclusion of disabled people in the Netherlands*, in: Frank Sowa, Ronald Staples, Stefan Zapfel, *The Transformation of Work in Welfare State Organizations: New Public management and the institutional diffusion of ideas*, Abingdon: Routledge.

⁶ L. van der Torre, M. Fenger, *Policy innovations for including disabled people in the labour market: A study of innovative practices of Dutch sheltered work companies*, in: *International Social Security Review* 67/2, 2014.

⁷ Article 10b, Participation Act. See also:

https://cedris.nl/app/uploads/Beschut_Werk_in_de_Praktijk.pdf

30,000 of these sheltered places. However, municipalities have not been able to reach this target. In July 2018, only in 1,465 cases an authorization for sheltered work had been issued.⁸ The actual number of persons working in sheltered workplaces is not registered and therefore unknown.

Job Agreement Act

After an extensive period of negotiations, employers' organisations, trade unions and the government concluded a Social Agenda in April 2013. This agreement aimed at stopping the downward economic spiral and the rise in unemployment and was intended to build a new infrastructure for work and income. Part of the Social Agenda was the agreement to gradually create 125,000 jobs for persons with occupational disabilities in 2026. Of these, the private sector would provide for 100,000 jobs, the public sector for 25,000 jobs. This part of the Social Agenda was transferred into a legal instrument: the Act on the job agreement and quota levy (*Wet banenafpraak en quotumregeling*). The Act applies the carrot-and-stick method: in case the targets are not reached, a quota system will be introduced. Employers with more than 25 employees will need to pay a fine of 5000 € per job placement if they are unable to fill the quota. This is intended to urge employers to speed up the creation of jobs. Each year, the private sector has reached its gradual target and the quota levy is not imposed. Public sector employers on the other hand failed to reach their annual target and will not fill the 25,000 promised jobs in 2026. The State Secretary of employment, however, has postponed the levying of fines in the public sector.

Wage Cost Subsidy

Employees with occupational disabilities generally have a lower productivity rate than employees without disabilities. One of the instruments in the Participation Act to address this, is the introduction of a *wage cost subsidy*. The employer pays the statutory minimum wage to the employee and is compensated by the municipality for the lower productivity of the worker. For some employers, the administrative and practical burden to apply for the wage cost subsidy has been considerable. For that reason they are reluctant to employ persons with disabilities. As a result, employment of persons with disabilities has hampered. In 2018, the State Secretary for employment initiated talks with employers, trade unions, disabled peoples organisations and others to identify issues and to discuss ways to decrease bureaucracy and to find other ways to increase the labour participation of persons with disabilities.

Work related facilities

Employers who wish to employ persons with a disability can apply for work related facilities at the Employee Insurance Agency (*UWV*) or the municipality. In order to claim the facility, the recipient needs show that it is necessary to function properly in the workplace. Depending on the situation and the type of disability a number of facilities are available and paid for: job coaches, sign language interpretation

⁸ <https://www.uwv.nl/overuwv/kennis-cijfers-en-onderzoek/statistische-informatie/rapportage-beschut-werk-1e-kwartaal-2018.aspx>

services, portable devices (e.g. braille terminal, made-to-measure safety shoes), adaptation of the workplace. The government has developed a toolbox for employers, with information, shared experiences and weblinks. It is intended to support them in getting the right facilities to employ persons with disabilities: www.toolboxinclusief.nl.

Initiatives to promote an inclusive labour market

Apart from legal and administrative measures, a number of instruments to promote inclusion in the labour market have been initiated by civil society organisations.

De Normaalste Zaak

In 2013, as an outcome of the Social Agenda, employers in mainly the SME sector, have taken the initiative to create a platform for the promotion of inclusive employment, *De Normaalste Zaak*, ('The most natural issue') <https://www.denormalstezaak.nl/>. The platform gives information on legal and practical matters and acts as a network for companies to inspire and to exchange experiences.

100,000 Banen

In 2015, the largest employers' organisations in the Netherlands, VNO-NCW, MKB-Nederland and LTO Nederland, started a project to help create the 100,000 jobs as promised in the Social Agenda. The project aims at giving information, advice and examples to employers to employ persons with occupational disabilities. It serves as a network of entrepreneurs, it assists participating employers in finding the right employees and gives information about job support. <https://www.opnaarde100000.nl/over-ons-2/>

Samen voor de klant

Another initiative has been developed by four public associations in the social security sector (Divosa, VNG, UWV and CEDRIS). They developed the platform *Samen voor de Klant* (Together for the Client). The platform provides employers with information and tools to facilitate the employment of persons with occupational disabilities. In the platform, an online toolkit was developed: <https://www.samenvoordeklant.nl/werkgeversdienstverlening/toolkit>

Conclusion

The labour participation rates of persons with disabilities are far lower than of persons without disabilities. Unemployment among person with disabilities is also much higher than for others. Driven by the wish to include more persons with disabilities in the regular labour market and to decrease the number of people working in sheltered work companies, the government, employers' organisations and trade unions agreed to open up the labour market for workers with disabilities. The legal instrument that was introduced in 2015, the Job Agreement Act, was intended to urge employers to include more persons with disabilities in their workforce. Where the private sector managed to reach the target, the public sector has not been able to do the same.

Both government as well as employers and their organisations have put in several efforts to remove barriers for employment of persons with disabilities. The spread of information, the creation of networks and the exchange of experiences can be seen as good practices. It depends however on data relating to labour participation and unemployment to see whether these efforts will have a lasting effect.