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Integration of People with Disabilities at Work

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Background

This document, concerning the integration of people with disabilities in the Israeli labor market, was prepared at the request of MK Ilan Gilon and presents Israel's policy as related to the integration of people with disabilities in the labor market, the relevant legislation and the German model of integrating people with disabilities in the labor market.

In **The Equal Rights of Persons with Disabilities Law, 1998**, a “person with disabilities” is defined as follows: **“a person with a permanent or temporary physical, mental or intellectual - including a cognitive - impairment, due to which his functions are substantively restricted in one or more main spheres of life”**.¹ According to the **Equal Rights for Persons with Disabilities Commission's**² report (hereinafter: The Commission) **for 2009, 1.555 million** people who define themselves as people with disabilities live in Israel.³ However, it should be noted that this rate is much higher than the accepted estimate, which is approximately half of this figure. The central Bureau of Statistics is intending to conduct a first of its kind, comprehensive survey in Israel to evaluate the extent of this phenomenon; this survey's findings will probably not be received before the end of 2012.

Studies indicate that the process of integration of people with disabilities into the labor market and the manner in which it is done are influenced by several factors, including the person's physical condition and work motivation level, work availability, employers' willingness to modify the workplace according to the employee's needs and other factors. It should be noted that different countries take different steps to define the integration method and the wage level of people with disabilities. **Germany**, as it shall be presented later in this document, prefers to rehabilitate people with disabilities rather than grant pensions, and a pension is granted only in cases where the rehabilitation process has failed. Germany also supports interventionism in the labor market by creating work positions and establishing employment quotas for people with disabilities. The wage level of people with disabilities in Germany is 60% of the other employees' wage, and as

¹ Section 5 of **“The Equal Rights for People with Disabilities Law, 1998**

² The Equal Rights for People with Disabilities Commission was established in 2000 as a central body operating under the Ministry of Justice. The Commission is entrusted with, inter alia, acting to prevent discrimination against people with disabilities and encouraging their integration and active participation in the community, as well as advising the Ministers on legal regulations and representing people with disabilities in legal claims due to violation of the provisions of the employment chapter in the Law. From the Ministry of Justice website: <http://www.justice.gov.il/MOJHeb/NetzivutNEW/Odot/Shaar>. Access: April 25, 2010.

³ The authors of the 2009 Equal Rights for People with Disabilities Commission's report indicate that although there are objective definitions of the term “Disability” (such as definitions employed to determine eligibility for various support schemes), studies show that those definitions are not sufficient for the research of the disability phenomenon. Many studies indicate that disability is a multi-faceted phenomenon, which varies during a person's life; therefore, disability evaluation must be assisted by the self-evaluation of people with disabilities as to their own situation. Use of self-definition may significantly help to identify those people who encounter difficulties in their daily functioning as a result of a long-term disability. The majority of these people require environmental adjustment that will enable their integration into the community and society, rather than direct financial assistance from the state. It should be noted that the evaluation of the disability phenomenon is especially complicated in cases of international comparisons. Ben-Moshe, E., Roffman, L., and Haber, I., People with Disabilities in Israel 2009: Disability and Integration into Social Life in Israel – Multi-Annual Comparative View, The Ministry of Justice, Equal Rights for People with Disabilities Commission.

a result of the government's intervention in the labor market, the wage gap between the two population segments has decreased significantly.⁴

Since the establishment of the state, Israel has seen substantial changes in the state's and society's attitudes towards people with disabilities, and since 1998, the relevant policies and legislation rely on the Equal Rights for Persons with disabilities legislation and the right of any person with disability to actively participate in all aspects of life. The current policy is a combination of two approaches – the prohibition on negative discrimination of people with disabilities, and focusing on addressing the special needs of this population. However, it should be noted that delays and hardships in enforcing this policy are still evident.⁵

Data

According to the Equal Rights for Persons with Disabilities Commission's data for 2009, 1.555 million people who define themselves as having a disability live in Israel⁶; 721,000 of them are within the working age range, 457,000 are elderly and 314,000 are children under 17. 293,000 of the working age adults have severe disabilities⁷; while 491,000 working age adults have moderate disabilities.⁸ The vast majority of the Israelis with disabilities live in the community, and 70,000 people with severe disabilities reside in medical treatment facilities.⁹

It should be noted that the Commission's data attest to the existence of social and economic gaps between people with disabilities and the rest of the population. Furthermore, data derived from a research conducted by the Ministry of Industry, Trade & Labor (hereinafter: the Ministry of ITL) indicate a negative discrimination of people with disabilities at work, and that in Israel, like in most countries, the unemployment rate of people with disabilities is higher than the unemployment rate among people not suffering from chronic disability.¹⁰ It should be indicated here that some studies demonstrate that people with disabilities have a different occupational structure, characterized by low rate of participation in the work force¹¹ and a high rate of unemployment.¹²

⁴ Wasserstein, S. and Inbar, L., Work Integration of People with General Disability and its Feasibility, The National Insurance Institute, June 2009.

⁵ Rimmerman, A., Avrami, S. and Araten-Bergman, T., Policy Towards the Disabled: From Social Legislation to Rights Legislation, Taub Center for Social Policy Research in Israel, 2007.

⁶ The authors of the report indicate that the total disability rate among adults in Israel is similar to the general disability rate found in Western European countries. However, the rate of severely disabled people in Israel is higher in comparison to those countries. Ben-Moshe, E., Roffman, L., and Haber, I., People with Disabilities in Israel 2009: Disability and Integration into Social Life in Israel – Multi-Annual Comparative View, The Ministry of Justice, Equal Rights for People with Disabilities Commission.

⁷ People with severe disabilities report that the condition severely hinders their daily functioning. Ibid.

⁸ People with moderate disabilities report that the condition hinders their daily functioning. Ibid.

⁹ Ibid.

¹⁰ Alfasi, Michal, Discrimination Against People with Disability in the Workplace and Employers' Attitudes Towards Employment of People with Disabilities, Research and Economics Administration, Ministry of Industry, Trade and Labor, November 2009.

¹¹ I.e. actually employed or actively seeking employment.

¹² Alfasi, Michal, Discrimination Against People with Disability in the Workplace and Employers' Attitudes Towards Employment of People with Disabilities, Research and Economics Administration, Ministry of Industry, Trade and Labor, November 2009.

Data on the employment rates of **people with severe disabilities** in 2007 is presented in the following table¹³:

	People with Severe Disabilities	People without Severe Disabilities
Labor force participation rate ¹⁴	37.6%	75.5%
Actual employment rate ¹⁵	30.9%	70.3%
Unemployment rate ¹⁶	17.8%	6.9%

Data on the employment rates of people with **moderate disabilities** in 2007 is presented in the following table¹⁷:

	People with Moderate Disabilities	People without Chronic Physical Conditions
Labor force participation rate	60.2%	75.5%
Actual employment rate	53.1%	70.3%
Unemployment rate	12%	6.9%

According to the data provided by the Department for the Integration of People with Disabilities into the Labor Market (hereinafter: the Department) in the Ministry of ITL¹⁸, approximately 65.2% of the people with disabilities in Israel earn less than the minimum wage, compared to 27% among people without disabilities. The Ministry of ITL's data further reveal that 13% of the people with disabilities earn more than the average wage; on the other hand, 37% of those not defined as having disability earn more than the average wage.¹⁹

¹³ Ben-Moshe, E., Roffman, L. , and Haber, I., People with Disabilities in Israel 2009: Disability and Integration into Social Life in Israel – Multi-Annual Comparative View, The Ministry of Justice, Equal Rights for People with Disabilities Commission.

¹⁴ Of the total working-age population (age group 20-64).

¹⁵ Of the total working-age population.

¹⁶ Of the total labor force participants.

¹⁷ Ben-Moshe, E., Roffman, L. , and Haber, I., People with Disabilities in Israel 2009: Disability and Integration into Social Life in Israel – Multi-Annual Comparative View, The Ministry of Justice, Equal Rights for People with Disabilities Commission.

¹⁸ The Department for the Integration of People with Disabilities into the Labor Market promotes inclusion of people with disabilities into work as wage-earners or as self-employed workers, focusing on the realization of their personal abilities and improvement of their standard of living, wages and work conditions. The Ministry of Industry, Trade and Labor, The Department for the Integration of People with Disabilities into the Labor Market, from the website, <http://www.moital.gov.il/NR/exeres/25A13408-2FDA-49BC-BEC5-2F4E87E54346.htm>, accessed on April 19, 2010.

¹⁹ Alfasi. Michal, Employment of People with Disability, The Ministry of Industry, Trade and Labor, The Department for the Integration of People with Disabilities into the Labor Market, September 2009.

The principal legislation in Israel on integration of people with disabilities into the labor market

The existing legislation in Israel is aimed at encouraging the integration of people with disabilities into the labor market and at encouraging employers to employ people with disabilities. Essentially, the responsibility for the implementation of the laws in this field lies on the Ministries of Justice, Welfare and Social Services, Defense, and Health, and on various public bodies including the National Insurance Institute, the Civil Service Commission, and the Department for the Integration of People with Disabilities into the Labor Market in the Ministry of ITL.²⁰

The following is an overview of some of the main legislated arrangements applying to people with disabilities in Israel.²¹

- **The Equal Rights of Persons with Disabilities Law, 1998**, defines the right for equality of people with disabilities, prohibits discrimination against people with disabilities in employment, compels employers to conduct workplace modifications to address the needs of people with disabilities, compels the Minister of ITL to promote the employment of people with disabilities, etc.²²
- **Minimum Wages Regulations (Wages Adapted to Employees with Disabilities with a Diminished Work Capacity), 2002**: the Department for the Integration of People with Disabilities into the Labor Market began to implement the minimum wages regulations in November 2006. According to these regulations, intended to encourage the employment of people with disabilities²³, any employee with disability may apply to the Ministry of ITL and ask to set him/her a lower work wage than the legal minimum wage – according to that person's actual work capacity.²⁴ It should be noted that these regulations do not prevent any person with disability from earning a minimum or higher wage. On January 20, 2010, amendments were made to these regulations that included, inter

²⁰ Mr. Benny Pepperman, Director of the Department for the Integration of People with Disabilities into the Labor Market, The Ministry of Industry, Trade and Labor, **Letter**, April 22, 2010.

²¹ It should be noted that this overview refers to the general legislation applying to all people with disabilities and does not include specific legislation for specific population segments such as I.D.F disabled veterans, work disabled and others.

²² Liora Rofman, Adv., Head, Community Inclusion Unit. Commission for Equal Rights of Persons with Disabilities, Ministry of Justice, **Letter**, March 28, 2010.

²³ It should be noted that an adjusted minimum wage has a graded structure, and is equivalent to the relative output of the person with disability, compared to the output average of an average worker or higher. Thus, the graded structure creates a situation in which a person with disability receives a relative wage which is not lower than that person's relative output. Mr. Benny Pepperman, director of the Department for the Integration of People with Disabilities into the Labor Market, The Ministry of Industry, Trade and Labor, **Letter**, April 22, 2010.

²⁴ The adjusted wage is determined based on an evaluation of the worker's work capacity compared to the work capacity of another worker in the same position. This evaluation is conducted by a professional diagnostician. The evaluation diagnosis is conducted at the workplace and is valid for the specific work position subject to the diagnosis. If, on account of the evaluation, the worker is graded with a work capacity no higher than 19% of the work capacity of a person who is not defined as having disabilities, the worker with disabilities receives a rehabilitee status entitling him/her to one of two wage levels:

1. For work capacity not exceeding 9%, the rehabilitated is entitled to a wage no lower than 9% of the minimum wage;
2. For work capacity between 9.1%-19%, the rehabilitated is entitled to a wage no lower than 19% of the minimum wage. Ibid.

alia, the following subjects: the duration of the application processing until the manager makes a decision about the employee, establishment of six adjusted minimum wage levels instead of the three levels established in the former version of the regulations, and other subjects.²⁵ In this context it should be noted that the Knesset has legislated the **Equal Rights of Persons with Disabilities Employed as Rehabilitated Persons (Temporary Provision) Law 2007**, which regulates the rights and employment status of people with disabilities with rehabilitee status. According to this law, the status of a rehabilitee will be set in the same manner as the work capacity of a person with a disability according to the Minimum Wages Regulations. The law also stipulates that no employee-employer relations would exist between an employer and an employee with a rehabilitee status, and that the employee is entitled to wages granted under the law, according to the employee's work capacity and to other rights stipulated in the law.²⁶

- **Regulations on Equal Rights for Persons with Disabilities** (State Participation in Financing of Adjustments) 2006: since July 21, 2007, the department handles employers' applications for the government's participation in financing adjustments and accommodations of the work environment for people with disabilities. The regulations stipulate that an employer or a future employer who employs a person with disability at least 1/3-time and over a period of at least 12 months is entitled to government participation in the financing of adjustments.²⁷ The sum of the government participation depends on the application type and the total number of employees at the workplace employing people with disabilities for which the adjustment is required, provided that the adjustment cost is no less than 1,000 NIS.²⁸ Usually the contribution payments range from 3,000 to 19,000 per person with disability for whom the adjustment was made.²⁹ It should be noted that the employer is also required to contribute to the financing of the adjustment according to the size of the business or the type of adjustment. Recently, a new draft regulation was prepared, that aimed, inter alia, to reduce the financial burden on the employer, lower the minimum cost that entitles government participation, simplify the application handling procedure, and extend the criteria for increased financing contribution. A final version of the regulation will be submitted to the Ministry of Justice's Legal Bureau towards the end of May 2010.³⁰
- **Amendment no. 2 to the Law on Equal Rights for Persons with Disabilities** (hereinafter: the Accessibility Chapter) approved in 2005, requires that any public

²⁵ Ibid.

²⁶ From the Department for the Integration of People with Disabilities into the Labor Market website: <http://www.moital.gov.il/NR/exeres/86CE789D-1B45-4758-8F96-FADF7A13ADC1.htm>. Accessed: April 20, 2010.

²⁷ The workplace accommodations (adjustments) for which one can apply for government participation include: position requirements adjustment, work hours, work admission tests, training, qualification and work procedures, instruction services for the employer, translation and transcription services, physical adjustments, etc. Ibid.

²⁸ Excluding cases where initial training is required.

²⁹ In certain cases, the government participation may be larger. Mr. Benny Pepperman, Director of the Department for the Integration of People with Disabilities into the Labor Market, The Ministry of Industry, Trade and Labor, **Letter**, April 22, 2010.

³⁰ Ibid.

structure and service be made accessible to people with all types of disabilities.

- In 2009, two amendments became effective: **Amendment no. 109 to the National Insurance Law** (hereinafter: the Laron Law), intended to make it easier for general disability beneficiaries to join the labor force through a gradual decrease of the benefit according to income and without forgoing other rights; the **Amendment to the Planning and Building Regulations** (hereinafter: New Public Building and Infrastructure Accessibility Regulations), aimed to ensure that all new public buildings and infrastructure will be accessible to people with disabilities.³¹

Employment of people with disabilities in the Civil Service

The following are the principal Civil Service laws and regulations (Hereinafter: Civil Service Regulations) on the employment of people with disabilities in the Civil Service:

- **Section 15A of the Civil Service Law (Appointments) 1959**, stipulates that people with disabilities will have appropriate representation among the civil service employees of all ranks and professions in all departments and support units. This section also obligates the government ministries, support units and the Civil Service Commission to take the necessary steps to enable and encourage appropriate representation, including implementation of adjustments according to **The Equal Rights for Persons with Disabilities Law, 1998**.
- **Section 35.21 of the Civil Service Regulations - Prohibition of Discrimination of People with Disabilities – Requirement for Appropriate Representation: The Equal Rights for Persons with Disabilities Law, 1998**, prohibits the State as an employer from discriminating against a person on the basis of that person's disability. The prohibition of discrimination according to the Equal Rights Law applies also to anyone who has been a person with disability in the past, to anyone considered as a person with disability, and to family members who take care of a person with disabilities.

³¹ Ben-Moshe, E., Roffman, L., and Haber, I., People with Disabilities in Israel 2009: Disability and Integration into Social Life in Israel – Multi-Annual Comparative View, The Ministry of Justice, Equal Rights for People with Disabilities Commission. In addition to the aforementioned laws, the following laws should be mentioned: **The Rehabilitation in the Community of Persons with Mental Disabilities Law, 2000 (article A in the supplement)**, which encourages workers with mental disabilities to work by participation in professional rehabilitation financing; **Regulation 3(5A) of the Mandatory Tenders Regulations, 1993**, which, in certain conditions, exempts government companies from a tender if a large majority of the company's employees receive disability benefits; **Regulation 3(15A) of the Mandatory Tenders Regulations (defense system contracts), 1993**, which, in certain conditions, exempts the Ministry of Defense from a tender for deals with government companies where a large majority of their employees receive disability benefits; **The National Insurance Regulations (Professional Rehabilitation), 1956**, which set criteria for professional rehabilitation by the National Insurance Institute; **The Employment Service Law, 1959 (sections 42, 42B, 63A)**, which prohibits the Employment Service from discriminating against people with disabilities in work placement and declares that a person requiring an employee shall not refuse to engage for work a person with disabilities; **Sections 88, 90, 203, 204, 205 of the National Insurance Law [consolidated version], 1995 (Professional Rehabilitation)** – the National Insurance Law and relevant regulations encourage people with disabilities to work through participation in professional training financing. Liora Rofman, Adv., Head, Community Inclusion Unit. Commission for Equal Rights of Persons with Disabilities, Ministry of Justice, **Letter**, March 28, 2010.

- **Section 35.22 of the Civil Service Regulations – The Right for Accommodations in Examinations and Adjustment of the Workplace:** according to this section, any candidate for employment or promotion in the Civil Service who declares himself/herself as a person with disability, and provides documents attesting to that fact, is eligible to receive from the Civil Service Commission a reasonable adjustment³² required on account of the disability to enable that person to take the relevant work admission and promotion examinations. This section also stipulates that a person with disability is entitled on account of the disability to receive from his/her workplace reasonable adjustments enabling that person to do his/her work at the workplace.³³
- **Section 35.25 of the Civil Service Regulations – Giving Priority to Candidates with Severe Disabilities:** in accordance with **Government Resolution no. 1073**. From November 30, 2003, the Civil Service Commissioner established regulations that give priority in employment and promotion to candidates with severe disabilities.³⁴

The Civil Service Commission took a series of steps to encourage the integration of people with disabilities in the labor market, including instruction to the government ministries and support units about improving the integration of people with disabilities at work and making adjustments to the work admission tests; accessibility inspection of the new government complexes, preparations for the implementation of the **Equal Rights of Persons with Disabilities Employed as Rehabilitated Persons (Temporary Provision) Law 2007**, in the Civil Service and for the publication of detailed instructions, etc.³⁵

Recommendations of the Public Committee for Disabled Persons' Affairs and for Promotion of their Integration into the Community regarding encouragement of employment of people with disabilities

The Public Committee for Disabled Persons' Affairs and the Promotion of their Integration into the Community, Headed by (Retired) Justice Ephraim Laron (the Laron Committee), was established following two government decisions on this matter³⁶ and considered, inter alia, the following issues: employment, accessibility, education and assistance in the transition from studies to work, social and leisure

³² An adjustment which does not overburden the employer. Civil Service Regulations, section 35.225.

³³ The adjustments include: adjustment of the building, equipment, job requirements, work hours, qualification, training, work procedures, etc.

³⁴ A candidate is a person with severe disability regarding work placement or promotion, if any of the following conditions apply to that person: the candidate has at least 70% approved disability according to the **National Insurance Regulations (Determining Disability Levels for Work Disabled), 1956**, or according to the **Disabled Persons Regulations (Tests to Determine Disability Level), 1969**; the candidate suffers from a mental illness or retardation of at least 40% as determined by a qualified authority; the candidate suffered a hearing loss of at least 50 decibels as determined by a qualified authority; a committee "examining applications for recognition as a person with severe disability" determined that the candidate is a person with disability according to the **Equal Rights for Persons with Disabilities Law, 1998**, and that the disability is no less severe than the disability severity level of a person with disability in the first two sections. Section 35.252 to the Civil Service Regulations.

³⁵ Mr. Nader Alkassem, Senior Coordinator, Fair Representation and Control, Civil Service Commission, **Letter**, March 10, 2010.

³⁶ Government Decision no. 1537, March 3, 2002; Government Decision no. 2124, June 30, 2002 .

activities, etc.³⁷ **The Government adopted the Laron Committee's recommendations regarding the encouragement of employment of people with disabilities and stipulated that the Director General of the Ministry of Welfare and Social Services will chair a committee that will monitor the implementation of the recommendations.**³⁸ The following is an outline of the main recommendations of the Laron Committee regarding the encouragement of employment of people with disabilities, and the method of their implementation.

- **Benefit Payment Method Reform:** the Laron Committee found that an increase to the salary of a person with disabilities results, in most cases, in a decrease of his/her total income (due to reduction of the disability allowance and associated benefits), and so acts as a disincentive for integration in the labor market. Therefore, the committee recommended a gradual reduction in payment of the allowance, so that the total income of the beneficiary will increase. The **National Insurance Law (Amendment no. 109) (Promotion of the Integration of People with Disabilities into the Labor Market), 2007**, that became effective on August 1, 2009 and is intended to remove any obstacle to integration into the labor market, mandates, inter alia, that the total income derived from work and benefits of a person with disabilities will be higher than income from the allowance alone.³⁹ It should be noted that the implementation of the amendment has been difficult and requires additions which are currently under various stages of processing⁴⁰, and that the number of people with disabilities who have been integrated into the labor market since the law came into effect is marginal, compared to the size of the specified population.
- **Facilitation of the process of employing people with disabilities and improvement of the organizational framework that deals with this:** the Laron Committee recommended creating several mechanisms that would facilitate the integration of people with disabilities into the labor market, including: **activation of the regulations regarding workplace adjustments, activation of the regulations regarding adjusted minimum wage, establishment of a fund to assist employers seeking to promote special disabled persons' employment initiatives, raising awareness of the importance of employing people with disabilities, etc.**⁴¹

It should be noted that the Equal Rights for Persons with Disabilities Commission reported that **not all of the Laron Committee's recommendations had been implemented and that some of the recommendations were only partially implemented.** The Commission further reported that **the Laron Commission had submitted various recommendations on how to induce employers to employ**

³⁷ Report of the Public Committee for Disabled Persons' Affairs and the Promotion of their Integration into the Community, March, 2005.

³⁸ Ibid.

³⁹ The benefit reduction will start from an income of 21% of the average wage and will continue to 93% of the average wage. The maximum income entitling disability benefit was raised to 60% of the average wage for people with severe disabilities and to 45% for people with less severe disabilities. Any disabled person who earns wages from this amount to 90% of the average wage will receive an "Incentive Benefit". The law further stipulates that a disability beneficiary who used to work and stopped working, or whose income has decreased within 36 months from the day the disability benefit was terminated, may receive the benefit again at the previous rate without having to undergo any new or repetitive tests.

⁴⁰ Liora Rofman, Adv., Head, Community Inclusion Unit. Commission for Equal Rights of Persons with Disabilities, Ministry of Justice, **Letter**, March 28, 2010.

⁴¹ Ibid.

people with disabilities; however, most recommendations were not actually implemented. Decision no. Shahar/6 of the Ministerial Committee on Welfare and Social Services from July 22, 2007 has entrusted the director general of the Ministry of Welfare and Social Services, the Director General of the Ministry of ITL, and the Accountant General at the Ministry of Finance with forming an inter-ministerial committee that would consider the following options and submit its recommendations:

1. To give high priority/incentives to bodies which would employ people with disabilities;
2. To give priority in government tenders to bodies employing people with disabilities.

The directors-general committee has established a sub-committee headed by the Deputy Accountant General, to provide recommendations on the relevant issues. The sub-committee has not yet concluded its work.⁴² It should be noted that the Director General of the Ministry of ITL and the Director of the Tax Authority held a meeting to discuss the possibility of encouraging the employment of people with disabilities by means of the tax system. During the meeting it was said that although the Tax Authority ascribes importance to inducing employers to accept employees with disabilities, this should be achieved through direct budget allocation rather than by means of the tax system. The Minister of ITL recently approached the Director of the Tax Authority, requesting him to reconsider his position in light of the international use of tax benefits for those who employ workers with disabilities. According to the Ministry of ITL, the Tax Authority has not yet replied to this request.⁴³

The Equal Rights for Persons with Disabilities Commission considers that in order to improve the integration of people with disabilities into the labor market, the following measures should be taken:

- Promotion of economic incentives such as tax benefits and priority in tenders for bodies that employ people with disabilities;
- Consolidation of the incentive created by amendment no. 109 to the National Insurance Law, by determination of the relevant legislative arrangements, including the fringe benefits and the circumstances in which the National Insurance Institute may summon a person with disability for re-evaluation;
- Directing the allocated financial resources to supported employment and to possible employment options for people with disabilities who require support in the workplace, both from among workers in protected enterprises⁴⁴ and people who have never worked;

⁴² Ibid.

⁴³ Mr. Benny Pepperman, director of the Department for the Integration of People with disability into the Labor Market, The Ministry of Industry, Trade and Labor, **Letter**, April 22, 2010.

⁴⁴ Employment in protected enterprises is intended for people with disabilities whose occupational capability does not allow their integration into the labor market. Those people are offered the opportunity of working in the protected and adjusted environment of a not-profit enterprise; the revenues are directed to the benefit of people with disabilities. It should be mentioned that some protected enterprises do operate for profit and are operated by entrepreneurs under the approval of the relevant Government Ministries and in professional cooperation with rehabilitation organizations. Department for the Integration of People with Disabilities into the Labor Market, The Ministry of Industry, Trade and Labor, from the website: <http://www.moital.gov.il/NR/exeres/ED2F7851-4445-447D-A260-E19920608ED4.htm>. Access: May 3, 2010.

- Improvement of the employment conditions of people with disabilities who are employed in protected enterprises;
- Development of a training system and an information center for both employers and employees which will provide the options relevant to employment of people with disabilities, exercise of rights and support;
- Development of cooperation between the authorities engaged in occupational assessment and occupational rehabilitation and development of goals that will enable occupational independence;
- Improvement of the integration of people with disabilities into the Civil Service.⁴⁵

Arrangements for the integration of people with disabilities into the labor market in Germany

Background Data

According to data from the German Parliament, approx. **6.9 million** people with severe disabilities, comprising 8.4% of the German population⁴⁶, and **1.9 million** people with moderate disabilities lived in Germany at the end of 2007.⁴⁷ A household survey conducted in Germany in 2005 reveals that the labor-market participation rates of people with disabilities is low compared to the participation rates of others; the participation rate of men with disabilities in the labor market was about 30%, and the participation rate of women with disabilities was about 23%, compared to 71% and 53% respectively among people not defined as having disabilities. The survey also indicated that the highest participation rate in the labor market was among people with disabilities of 25 – 45 years of age, with about 74% for men and about 65% for women.⁴⁸

Legislation and arrangements intended to enhance the integration of people with disabilities into the labor market in Germany

In recent years, Germany introduced new policies and legislative arrangements that aimed to promote the vocational training of people with disabilities and to reinforce their ability to integrate into the labor market. However, studies indicate that due to lack of sufficient data, it is as yet impossible to assess the effectiveness of the implemented programs. Among the main laws related to promoting the employment of people with disabilities:

- **The Social Laws Code, Vol. 9**⁴⁹ became effective in 2001 and reflects the policy change that occurred in Germany – a transition from a welfare approach to people

⁴⁵ Ibid.

⁴⁶ Mrs. Anja Lohmann, Benefits for Employers of Workers with Severe Disability, German Parliament, 2010. Sent via Email by Mr. Kolja Bartsch, German Parliament, April 15, 2010. Translated from German by: Dr. Gilad Nathan, Senior Research and Information Coordinator at the Knesset Research and Information Center.

⁴⁷ According to a household survey conducted in Germany in 2005.

⁴⁸ Academic Network of European Disability experts (ANED), "Report on the employment of disabled people in European Countries-Germany", November 2009, retrieved from <http://www.disability-europe.net/en/countries/Germany>, April 20th 2010.

⁴⁹ Neuntes Buch Sozialgesetzbuch - SGB IX – Rehabilitation und Teilhabe behinderter Menschen.

with disabilities to an approach which promotes their equal participation in all aspects of life. The law ensures various social benefits to people with disabilities and also establishes benefits meant to prevent discrimination and to assist people with disabilities to maintain an independent lifestyle.⁵⁰

- **The Equality Law**⁵¹ became effective in 2006 and protects people with disabilities from discrimination based on their disabilities, in the labor market, among other areas.
- **The Act Promoting Vocational Training for People with Severe Disabilities and their Integration into the Labor Market**⁵² became effective in 2006 and is intended to assist the integration of young people with severe disabilities into the labor market.
- **Federal Law on Equal Opportunities for Disabled People**⁵³ became effective in 2002 and ensures the accessibility of public places, public buildings, public transportation, etc. for people with disabilities. The law also determines that sign language is an official language in Germany.
- **The UN Convention on the Rights of Persons with Disabilities:** Germany signed the 2006 UN Convention on the Rights of Persons with Disabilities, which sets international standards of civil and social rights for people with disabilities.⁵⁴ The Convention declares, inter alia, that the signatory nations must promote the implementation of occupational rights of people with disabilities, including prohibition of discrimination in job recruitment, employment terms, promotion, and other aspects.⁵⁵
- The German Constitution was amended in 1994, and now forbids any discrimination on the basis of disability.

It should be noted that the Ministry of Integration and the Federal Ministry of Labor and Social Affairs are both entrusted with the protection, promotion and enforcement of the rights of people with disabilities in Germany. In 2007, the Ministry of Integration created additional 8,433 workplaces which employed 31,339 people with disabilities, compared to 10,109 workplaces which employed 27,436 people with disabilities in 2005.⁵⁶

The employment terms of people with disabilities in Germany

⁵⁰ M. Kock, "Disability Law in Germany: An Overview on Employment, Education and Access", **German Law Journal**, Vol. 05, No. 11, 2004.

⁵¹ Allgemeine Gleichbehandlungsgesetz (AGG).

⁵² Gesetz zur Förderung der Ausbildung und Beschäftigung schwerbehinderter Menschen.

⁵³ Gesetz zur Gleichstellung behinderter Menschen.

⁵⁴ It should be noted that Israel signed this convention on March 31, 2007.

⁵⁵ Convention on the Rights of Persons with Disabilities. Academic Network of European Disability experts (ANED), "Germany-ANED Country Profile", April 2009, retrieved from <http://www.disability-europe.net/en/countries/Germany>, April 20th 2010.

⁵⁶ The employment quotas are fixed in The Social Laws Code, Vol. 9. Mrs. Anja Lohmann, Benefits for Employers of Workers with Severe Disability, German Parliament, 2010. Sent via Email by Mr. Kolja Bartsch, German Parliament. April 15, 2010.

In Germany, the disability level of a person is measured on a scale between 20–100 points. A person assigned a disability level of 50 or above is defined as a person with a severe disability. A person with a disability level of 30 or above who encounters difficulties in finding a job or holding a job for a long time is entitled to a special status similar to that of a person with severe disability. The special status entitles that person to assistance in finding employment and to part of the benefits and rights provided to people with severe disability.⁵⁷

People with disabilities are entitled to various benefits aimed at promoting their integration into the labor market, including career counseling, placement and professional training services, training grants and grants for employers. Those defined as people with severe disability are entitled to special benefits and rights, such as:

1. **Inclusion in Employment Quotas:** All the employers, both in the public and private sectors, who employ at least 20 workers, must reserve 5% of the existing positions for people with severe disability.⁵⁸ It should be noted that part of the federal workplaces are obligated to reserve 6% of the existing positions for people with severe disability. Employers who fail to fill the quota must pay a monthly fine for any position not filled accordingly. The levels of the fines are:
 - An employer who reserved only 3% of the positions for people with severe disability will be fined 105 Euro per month;
 - An employer who reserved only 2%–3% of the positions for people with severe disability will be fined 180 Euro per month;
 - An employer who reserved only 2% or less of the positions for people with severe disability will be fined 260 Euro per month.⁵⁹

The incomes derived from these fines are channeled to provide employment benefits to people with disabilities and their employers. It should be noted that according to data for the year 2000, provided by the German Federal Ministry of Labor and Social Affairs, the average employment rate of people with severe disability was only 3.7% that year.⁶⁰

2. **Prohibition of Discrimination:** The German law stipulates that a candidate's disability may not serve as a basis for non-recruitment. Any employer who does not fulfill this obligation may be sued and be compelled to compensate the candidate.
3. **Adequate Work Conditions:** German legislation stipulates that people with severe disability shall be employed under such conditions that will enable them to fully exercise their capabilities. Therefore, the employers must accommodate the

⁵⁷ M Kock, "Disability Law in Germany: An Overview on Employment, Education and Access", Vol. 05, No. 11, 2004.

⁵⁸ Nevertheless, it should be noted that employers are not obligated to create additional jobs for people with disabilities, or to replace workers not defined as having a disability with those who have a severe disability. Mrs. Anja Lohmann, Benefits for Employers of Workers with Severe Disabilities, German Parliament, 2010. Sent via Email by Mr. Kolja Bartsch, German Parliament. April 15, 2010.

⁵⁹ Mrs. Anja Lohmann, Benefits for Employers of Workers with Severe Disability, German Parliament, 2010. Sent via Email by Mr. Kolja Bartsch, German Parliament. April 15, 2010.

⁶⁰ Academic Network of European Disability experts (ANED), "Germany-ANED Country Profile", April 2009, retrieved from <http://www.disability-europe.net/en/countries/Germany>, April 20th, 2010.

work environment to employ people with severe disability. In cases where the work environment accommodation constitutes a financial burden which cannot be met by the employer, the expenses will be entirely or partially paid by the aforementioned fine money, levied due to failure to meet the quotas.

4. **Unique Rights:** employees with severe disabilities are entitled to an extra annual week of paid leave, and subject to their request, they will be exempted from overtime work. These rights were regulated in order to ensure that employees with disabilities maintain their health and have enough leisure time that may be used for integration in other aspects of life.
5. **Integration Grant for Employers:** People with severe disability who encounter difficulties in finding a job due to their physical condition, age or other reasons are entitled to additional employment assistance, in the form of grants provided to those who employ them. In some cases, the grant is 70% of the salary paid to the employee over a three year period. A grant for a period of 60 months is provided for the employment of people with severe disabilities over the age of 50, and a grant for a period of 96 employment months is provided for the employment of people with severe disabilities over the age of 55. It should be noted in this context that employers can receive grants only if they meet the aforementioned quotas.⁶¹

⁶¹ Mrs. Anja Lohmann, Benefits for Employers of Workers with Severe Disabilities, German Parliament, 2010. Sent via Email by Mr. Kolja Bartsch, German Parliament. April 15, 2010.

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