

# REPORT ON THE COMPARISON OF THE AVAILABLE STRATEGIES FOR PROFESSIONAL INTEGRATION AND REINTEGRATION OF PERSONS WITH CHRONIC DISEASES AND MENTAL HEALTH ISSUES

BASED ON FIVE CATEGORIES OF SOCIAL WELFARE MODELS IN EUROPE

## Austria: country report

### *Main legislative frameworks on chronic diseases, mental health and employment*

“Chronic diseases” or “Chronically ill” are categories which as such are not part of common terminology in social insurance (including employment insurance) or health regulations.

Disability and unemployability (arbeits- bzw. erwerbs(un)fähig) are the major terms used in the General Social Insurance Act. A (chronic) disease may be at the origin of an officially recognised disability status (“Behindertenpass”) attesting a reduction in work or earning capacity (usually expressed as ‘degree of disability’ in percentages); on the other hand, a person with a chronic disease may not receive the status of an officially recognised person with a disability and may also have full work or earning capacity.

“Reduced working capacity” exists within the health insurance only in terms of a physician telling one that one cannot go to work and must stay at home on sick leave (may last up to 26 weeks, in specific situations up to 52 or even 78 weeks). If this reduced working capacity persists, e.g. in case of a chronic disease, persons with chronic diseases may apply for rehabilitation allowances (instead of sickness-leave allowances) from their medical insurance for a limited time period (up to 2 years)<sup>1</sup>. Within this period, they are coached by rehabilitation advisers / case managers. After the assigned time period, vocational re-assessment is foreseen.

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<sup>1</sup> General Insurance Act has changed - since 2014 access to permanent pension (Invaliditäts- und Berufsunfähigkeitspension) is limited to those born before 1964; all other persons with chronic diseases receive rehabilitation allowances from their medical insurance for a limited time period (up to 2 years) and are coached by rehabilitation counsellors/case managers. After this period, vocational re-assessment is foreseen.

A person with a chronic disease may be considered “unemployable” or “incapacitated for work” (“arbeitsunfähig” as stated in a vocational assessment report or “Berufsdagnostisches Gutachten”). Then she/he might get a permanent invalidity pension.

For certain services and advantages (e.g. employment within the quota system as part of the Austrian Disability Employment Act), persons with chronic diseases need to get the status of “disabled persons”; for other services (e.g. in the fit2work program as part of the Austrian Work and Health Act), the fact that they are (chronically) ill or have been ill is sufficient.

Within the General Social Insurance Act, no “partial disability” status is foreseen. One is either completely fit or completely unfit for work (which is an obstacle for gradual return to work). In the field of unemployment support and in the employment policies a (partially) reduced working capacity may be a reason to receive (re-) training or adaptations or allowances.

#### *Main legislative frameworks on disability and employment*

- The General Social Insurance Act (Allgemeinen Sozialversicherungsgesetz, ASVG)
- The Austrian Social Law Amendment Act (Sozialrechtsänderungsgesetz 2012)
- The Austrian Work and Health Act (Arbeit-und-Gesundheit-Gesetz, AGG, 2011)<sup>2</sup>
- The Austrian Disability Employment Act (Behinderten-Einstellungsgesetz, BEinstG 1970)<sup>3</sup>
- The Austrian Law on Continued Payment of Remuneration (Entgeltfortzahlungsgesetz - EFZG)<sup>4</sup>
- Ratified the UNCRPD on 26 September 2008.

#### *Policy provisions on mainstream and specialist employment programmes*

Persons with chronic diseases / disabilities can use all mainstream services of the Public Employment Service of Austria (AMS). There are Rehab-Counsellors at the AMS and a variety of services offering counselling for persons with difficulties finding work, targeting younger persons , women, persons over 50 years, and persons with disability. Furthermore, a specific service organisation of the Federal Ministry of Labour, Social Affairs and Consumer Protection, called Sozialministeriumservice (SMS) is the main governing body dealing with employment schemes for people with disabilities.

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<sup>2</sup> <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20007058>

<sup>3</sup> <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008253>

<sup>4</sup> <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008308>

### *Policy provisions on access to employment support*

In Austria, competence centres of the Austrian Federal Pension Fund (Pensionsversicherungsanstalt, PVA) are primarily responsible for the assessment of reduced work capacity due to chronic disease (“Gesundheitsstraße”). Furthermore, the SMS is responsible for acknowledging an officially recognised disability status (Behindertenpass) attesting a reduction in work or earning capacity (usually expressed as ‘degree of disability’ (‘Grad der Behinderung’, GdB) in percentages). For some special employment-related interventions, a degree of 50% is required. The disability assessment, based on a specific taxonomy (Einschätzungsverordnung, 2010), covering all organ systems and medical conditions, is primarily medically and disability-focussed. The disability status might not always be permanent; the assessor decides if and when a re-assessment is necessary.

The 50% degree of disability separates the responsibilities between the Austrian State government and the federal provinces. The federal provinces are responsible for interventions for persons with a degree of disability below 50%; these are persons who might face difficulties in acquiring an employment contract with all the social security rights and obligations attached to it. The Austrian State government is responsible for the interventions for all persons with a degree of disability above 50%.

The affected person her- or himself, other authorities such as the AMS, the Austrian Federal Pension Fund (Pensionsversicherungsanstalt) or other rehab institutions can induce such an assessment by SMS. Here a person is found to be disabled or unemployable and therefore might be entitled to benefits of medical or professional rehabilitation.

According to the social insurance laws one is either capable of working or not (no partial disability pensions). This might raise a barrier for reintegration of persons with chronic diseases. However, assessments to find out how to (re-)integrate persons with chronic diseases into the labour market takes an approach focussed on what a person “can do” instead of what the person “cannot do” (as is done by case-managers in the fit2work approach, see next point).

### *Policy provisions promoting stakeholder cooperation and integration of services*

Changes in legislation towards “Step by step integration” have been made in 2011 (The Austrian Work and Health Act). As a result, a “fit2work” programme, an advisory and prevention programme for older employees and persons with chronic diseases / disabilities has been established.

The fit2work activities are coordinated by the SMS. Inter-agency cooperation and integration of services are main features of the fit2work service program, provided by regional implementing partners cooperating with many other partner organisations, such as the Association of Austrian Vocational Training and Rehabilitation Centres (Berufliches Bildungs- und Rehabilitationszentrum, BBRZ-Gruppe)<sup>5</sup>.

First results of monitoring the interventions raised by the Austrian Work and Health Act are expected by the summer of 2016.

#### *Policy provisions promoting persons-centred approach and individualised service provision*

Fit2work provides free advisory service if one's job is at risk because of health problems or if a person is facing difficulties in finding work. Furthermore, fit2work case managers provide personal support if needed. At the beginning, a clearing process takes place to capture individual needs. Next, the consultants set up an action plan in collaboration with the individual. After this, fit2work case managers will support and assist the individual in implementing the action plan.

#### *Policy provisions on localised and accessible employment service provision*

The PES has regional offices and there is a nationwide network of fit2work centres since 2012.

#### *Employment support in the open labour market*

Supported employment is a national mainstream programme in Austria. It began in 1992 with two pilot projects "Arbeitsassistentz", which provided individual support for persons with mental or physical disabilities. In 1994, this kind of service was incorporated in an amendment to the Austrian Disability Employment Act and the service was extended to a broader target group and made available nationwide. In 2011, a total of 45 different NGO service organisations ran 135 projects. Persons with chronic diseases may benefit from these services, although the effects have not been evaluated systematically.

Adaptation of the working time is dependent on agreements between the employer and the person concerned and may also depend on collective agreements within the different industries or employment contract or 'Dienstrecht'. The employer has to be disposed to organize such adjustments but may get advice.

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<sup>5</sup> <http://www.bbrz-gruppe.at/de/home.html>

‘Disability Management’ has been developed in some large companies (e.g. Bank Austria). Specific projects are stimulated, such as ‘Cancer&work’ offering counselling for individuals and businesses.

The SMS offers financial support for eligible persons with disability or for persons at risk to get disabled if no support is provided. Such adjustments may fall under the notion of reasonable accommodation and may therefore be imposed after a court case.

Privileges and protections:

- Some persons with chronic diseases and persons with disabilities (with a care allowance of at least rate 5 of 7) may receive personal assistants who operate (also) at the workplace.
- Persons with an officially recognised disability status may have more leave days than non-disabled persons (depending on collective agreements within the different industries or employment contract or ‘Dienstrecht’).
- Employees with an officially recognised disability status above 50% enjoy an enhanced dismissal protection (“Erhöhter Kündigungsschutz”), which results in a more complex dismissal process. This means a person who has been employed for at least 4 years person can only be dismissed after approval by a committee of the SMS. This raises employers prejudice and concerns to hire persons with chronic diseases or disabilities. In practice the dismissal is in many cases approved by the SMS. Still the prejudice and concern with “Erhöhter Kündigungsschutz” persist. So far only 25% of employers meet the employment quota. From the employers’ point of view, dismissal protection limits the autonomy of companies. Therefore, employment specialists sometimes advise their clients not to register for disability status. So it has to be considered that there is a ‘dark figure’ of unknown cases of persons with disabilities.
- The wages of employees with an officially recognised disability status as such may not be lowered because of the disability.
- Persons who lost their full-time job due to a disease and would earn less than before in a new job can get compensation payments for one year, leading to a net income above the unemployment benefit. This means that compensation for loss of income is only compensated for a short period of time for the individual with disability. Employers, however, can receive longer financial support (see section on ‘Financial incentives for employers’).

### *Employment support through Social enterprises or social cooperatives*

Different types of social economy organisations exist. They offer mostly temporary training places and counselling to persons with chronic diseases or disabilities in order to prepare them for the open labour market.

### *Employment support through sheltered work*

The term 'Sheltered work' is no longer in place and has been substituted by "Behindertenhilfe". Sheltered work is restricted to persons with disabilities with a work capacity less than 50%. Participants have no labour contract and receive no wages, only EUR 90 pocket money. Therefore they do not receive the benefits of an employment (social insurance and coverage by the Austrian pension fund). Most of the about 20,000 persons in Austria receiving support from "Behindertenhilfe" are persons with intellectual disabilities. Transfer to the open labour market is very low.

### *Incentives for persons with NCDs to participate in activation programmes*

There has been a move away from temporary invalidity pensions (which could become unlimited) to rehabilitation allowances. In 2012, the Austrian Social Law Amendment Act was released. As a consequence, persons born after January 1, 1964 and who are not permanently unable to earn a living can no longer receive a temporary pension (14 times per year) but get rehabilitation allowance (12 times per year) instead, accompanied by case management offering medical and vocational services to get back to work. In practice however the vocational part of this system is not well developed yet.

### *Financial incentives for employers to recruit/retain persons with NCDs*

Employers recruiting officially recognized persons with chronic diseases or disabilities are entitled to receive integration subsidies ("Eingliederungshilfe"). The first three months, the subsidy covers 100% of the gross wage + 50% of additional expenses (health and pension insurance etc.). The next nine months, subsidies cover 50% of the gross wages and 25% of additional expenses. After this first year, the employer may be entitled to permanent (year to year) financial support (IBH, Integrationsbeihilfe) from the SMS for employees with disabilities. This covers extra expenses for circumstances related to the disability.

### *Non-financial incentives for employers to recruit/retain persons with NCDs*

There are some (voluntary) programmes in (mostly large) companies promoting the recruitment and retention of persons with ill health. These programmes are as well used for employer branding. Some work-related information aimed at reducing prejudice and fears from employers' side is done by 'Anwaltschaft für Menschen mit Behinderung', the advocacy group for persons with disabilities and the SMS (e.g. workshops, informative talks and trainings are offered, other projects focus on training multipliers also).

### *Duties of persons with NCDs*

Persons with chronic diseases are required to go through relevant medical treatment and rehabilitation. This is monitored by rehabilitation advisers (mostly restricted to reporting of use of medical system and on-going medical changes).

In Austria the basic concept since the nineties is "rehabilitation before pension", but it was never implemented unequivocally. The reform of the invalidity pension system in 2012 was an important step into this direction. Every one under 50 should undergo rehabilitation, (first medical, then vocational rehabilitation), but this has proven to be impossible for many health conditions. In fact, only a few hundreds undergo rehabilitation, whereas thousands receive rehabilitation allowance. Legislative and service changes are planned with a focus on persons benefiting from vocational rehabilitation.

### *Duties of employers*

Every employer with at least 25 employees in Austria is obliged to employ a registered, protected disabled person for every 25 employees (4%). Some persons (i.e. severely disabled persons, disabled persons of a certain age) are counted double for fulfilment. Non-complying enterprises must pay charges which are not very high: a monthly fine of EUR 248 (small companies) up to EUR 370 (large companies). The fact that employers can 'buy out' of the obligation instead of hiring people with disabilities has for result that 75 % of all the companies stay under the quota obligation and opt for paying the fine.

*General and specialised employment services for persons with NCDs*

- Association of Austrian Vocational Training and Rehabilitation Centres (Berufliches Bildungs- und Rehabilitationszentrum, BBRZ-Gruppe<sup>6</sup>) offer retraining for different jobs in different fields. Access is restricted and there is no absolute entitlement to receive education and (re)training to obtain additional skills and qualifications.
- Retraining of persons who are on sick leave or receive a rehabilitation allowance is impeded by the notion of “employment protection” (Berufsschutz). This means that someone can only be placed in an appropriate job related to the individual’s previous job experience or training. Therefore, a person who performed highly-qualified work has to be treated differently from a person who performed low-skilled work. The former could not be referred to a low-skilled job and might therefore get an invalidity pension (if no suitable job is available) whereas the latter would have to take any low-skilled job on offer and might get no pension. For white collar workers, the same reasoning applies but is based on the level of income. The Supreme Court has ruled that a huge loss of income is unreasonable and could therefore be a reason to award a pension instead of obliging a person to take a job which pays much less than what she/he earned before.
- Within the Fit2work programme, an early assessment and registration of the consequences of a disease should take place in order to early detect a risk of developing a chronic disease, which might impact on work capacity. At the moment, resources for this can be enhanced..
- A few companies implement disability management concepts including staff training as part of the fit2work consulting programme and of specific cancer aid projects.
- Fit2work offers counselling and advice to keep people with a health condition at work. Financial support for employer is possible but has to be negotiated between the AMS and the employer.