

EXPANDED ABSTRACT

Labor insertion of people with disabilities in public employment. Legal-economic analysis of the situation in the Community of Madrid

Disabled people face difficulties when accessing the labour market and then require of public policies to protect them and specific mechanisms to favor their labour market integration. This article focuses on the analysis of the available tools to access public employment, their principles, characteristics (different from those relative to the private sector) and the problems they pose to disabled people.

Employment is the main channel through which disabled people achieve not only personal autonomy, but also social inclusion. Several international reports – among which are paramount the Convention on the Rights of Persons with Disabilities approved by United Nations in 2006 and the European Disability Strategy 2010-2020— show the vulnerability of this group that suffers from poverty indexes above the average. This is mainly the consequence of their difficulties to find a job.

Within the public policies framework, different mechanisms have been devised to foster the employability of disabled people. Nonetheless, such mechanisms differ between private and public sectors, with the latter being the motivation for this article.

In Spain, the study of this issue consists on the following factors:

- a) Firstly, the competential factor, since the legislation is distributed between the Government and the Autonomous Communities. Thus, the latter have margin to implement their own policies on this matter, but complying with governmental principles.
- b) According to the Spanish Constitution, the accessing system to public employment is based on merit and ability, which gives way to rigid systems to access public employment (public examination, contest and public examination contest).
Measures to boost public employment of disabled people must comply with those principles and systems taking into account potential limitations.
- c) The procedure to facilitate access of disabled people to public employment is the so called “cupo de reserva” (reserved quota), which consists of reserving a percentage of the offered vacancies. This mechanism has also been a source of judicial conflicts given its discriminatory nature, even though eventually endorsed by its characteristic as a positive action aimed to eliminate obstacles for this vulnerable group.
- d) Finally, it cannot be forgotten that public sector employment does not only affect territorial

Administrations, but also the so called institutional public sector which consists on several organizations of different nature and legal status with civil servants or contract basis employees. Among these organizations, public firms must comply with the same rules as private companies and, more precisely, they must employ 2% of disabled people among their workers for companies of more than 50 workers.

This article performs a data analysis that highlights that public firms do not comply with this rule to a larger extend than private companies.

Within this framework, the work focuses its investigation in the Autonomous Community of Madrid because of two main reasons: 1) On the one hand, because this Autonomous Community has been largely implementing multiyear and multisector plans to tackle different issues that affect disabled people. A trip throughout these plans highlights the evolution of public policies regarding this issue and their limitations according to their assessment reports; 2) On the other hand, because of the importance of the Autonomous Community of Madrid in terms of population and economic activity, since Madrid has a great amount of disabled people in the position of obtaining a job.

The relevance of this work is fourfold:

- a) Firstly, because it brings together the legislative and economic analyses, allowing not only to depict the departing point but to illustrate with data some of the weaknesses pointed out by the examination of the legal issues.
- b) Secondly, the lack of complete official databases throughout this investigation has required of great effort of data collection and elaboration.
- c) Thirdly, public policies entail public expenditures of which effectiveness and efficiency should be assessed. This is even more relevant when undertaking multiyear plans prolonged along time. Regarding this, the following Action Plan of the Autonomous Community of Madrid to be undertaken should improve certain elements that this work illustrates.
- d) Finally, it suggests original ideas with respect to areas of improvement according to the available data. In this point, the main conclusions of the article are as follows:
 - 1) Public policies regarding the access to public employment of disabled people tend to be limited to comply with the regulation. Such compliance is purely formal and constrained to the reserved quota. Nevertheless, data show that the quota is not fulfilled in practice, and no information is available regarding the reasons for this.
 - 2) The legislation should be oriented differently in diverse fronts: access systems (their characteristics make them particularly burdensome for disabled people), structural vision of the professional career of public servants (i.e. taking into account not only access, but also individual needs of disabled people), training plans...

- 3) Any design of public policies on this issue requires of available data to check the plans effectiveness and deadweight loss. Previous assessment (in order to set the needs to be attacked by the plans) and posterior (regarding plans' accomplishment) are essential elements. In this sense, the Third Action Plan of the Autonomous Community of Madrid shows that public employment is integrated in itself but with flaws that make not viable an in depth action with real effects.
- 4) Access to public employment of disabled people cannot be detached from other components with transversal nature, in particular education/training without which it is not possible to comply with the principles of merit and ability.

KEYWORDS: Disability, public employment, public policies, public sector, positive discrimination.