

## BETWEEN EQUALITY AND DISCRIMINATION: DISABLED PERSONS IN ROMANIA\*

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### Abstract

Using a qualitative approach based on an institutional ethnography of social organization of work inclusion for disabled persons, the current paper addresses the specific ways in which the individual experiences of the Romanian disabled persons, in society and on the labor market, are influenced and shaped by the social relations of textually mediated discourse. It draws on the results of a larger study, conducted between 2014 and 2015 in Romania, as part of a research project focusing on the dysfunctionalities that impede the labor market access of disabled persons in Romania and the institutional arrangements and structural mechanisms that underpin these dysfunctionalities. The paper reveals a particular type of consonance between the Romanian legislative provisions, institutional arrangements and local practices, that allows for the concept of 'protection' of the disabled persons to transcend its initial purpose and philosophy and start working against the disabled persons. The article also sheds some light on the way in which the fragmentation and parallelism that currently govern the system of protection for the disabled persons hamper the development of a consistent vision, backed by a homogenous approach, in dealing with or managing the multiple negative issues associated with disability in Romania.

**Keywords:** disability, labor market access, administrative / legislative dysfunctionalities, occurrences of discrimination.

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## **1. Introduction: Some aspects regarding the vulnerability of the disabled persons in the society and on the labor market**

Disability is among the most important vulnerability-inducing characteristics of a person, holding within itself the potential of exposing the person, at the same time, to poverty, discrimination, abuse or torture, and, often, as a consequence of the impairment, the incapacity of that person to respond in any way to the wrongdoings he/she is confronted with. Currently, more than 1 billion persons with disabilities live around the world (World Health Organization, 2015), thus making them the world's largest minority (15% of the entire population). However, the progress made in securing the rights of persons with disabilities, even in the world's most developed economies, does not do honor to our current stage of civilization. For example, according to a policy report issued by the Academic Network of European Disability experts (ANED) in 2013, the disabled persons living in the European Union's member states face discrimination on grounds of disability in all areas of life, from education (22% of young disabled people are early school leavers compared to 12% among non-disabled), to the risk of household poverty or social exclusion (36% among disabled people, compared to 21.4% among non-disabled), and unemployment (45.5% of the disabled persons are employed compared to 71.7% among non-disabled) (Grammenos, 2013).

The situation of the United States of America is not very different from that of Europe, in terms of education (20.9% of the disabled persons have an educational attainment of less than a high school education, as compared with 10.3% of non-disabled), poverty (28.2% of non-institutionalized disabled persons aged 21 to 64 years living below the poverty line, as compared with 10.3% of non-disabled persons in the same age group), or employment (33.7% of disabled persons were employed, as compared with 72.2% of non-disabled persons) (Cornell University, 2013).

Thus, in the current age of unprecedented affirmation of human rights, the documented vulnerability of the disabled persons in society and on the labor market requires specific targeted measures that will allow us to universally address the confronted challenges, in our effort to create an inclusive and cohesive society.

In order to achieve the purpose of ensuring equal rights and opportunities for the disabled persons, a series of 'legal instruments' were developed internationally (i.e., United Nations Convention on Rights of Persons with Disabilities, 2006; Invalidity, Old-Age and Survivor's Benefits Convention, 1967; the European Disability Strategy 2010-2020, etc.), while also at national level they are backed up by specific legislation against discrimination on grounds of disability.

Compared to other European member states, Romania is not doing so great in pursuing the objectives of the CRPD, the European Disability Strategy (EDS) 2010-2020 or the Europe 2020 targets, when it comes to ensuring equal opportunities for persons with disabilities. Moreover, Romanian official statistics faces a serious challenge in presenting realistically the situation of the disabled persons in the Romanian society and on the labor market, since, for purposes of legal and financial arrangements, the most reliable figures we hold are those reported by the General County Departments

for Social Assistance and Child Protection and centralized at national level by the Ministry of Labor, which refer exclusively to the disabled persons for which a handicap certificate was issued, and which are just a proportion of the total number of Romanian disabled persons, as we will see in the following chapter. However, other research conducted by independent entities (SAR, 2009; ONPHR, 2007 *apud* SAR, 2009) have shown that, compared to their non-disabled co-nationals, the Romanian persons with disabilities have an extremely low level of inclusion on the labor market, which, according to the cited reports, varies between 5% (ONPHR, 2007 *apud* SAR, 2009) and 12.7% (SAR, 2009) from the total number of persons with disabilities / handicap.

In spite of the recurrent political discourse on the necessity of the public administration reform and the decentralization of the Romanian public institutions, as an instrument for improving the efficiency, equity, accessibility and quality of the provided services and of the degree in which these items cover the local needs (Andrei *et al.*, 2009), when analyzing the functioning of the local public institutions designated to support the social and labor market inclusion of disabled persons, we notice that the top-down perspective is still the most popular approach in the management of these entities, leaving little to no room to innovation and adaptation of its services to the local needs of the population. For this reason alone (the dominant role of the central authority in relation to the local one), some investigations into the role and function that the public policy has on the local practices are needed.

Moreover, following the various levels of sub-ordination and co-ordination of different international and national policies, allows us to understand both the occurrence and the development of certain legal initiatives in the Romanian landscape, that could be, thus, interpreted more in line with the local needs (as it should happen) or more like an answer to the external demands. The latter strategy has already been in use before in our country in other fields also. Profiroiu and Profiroiu (2006, p. 121) call it a reactive implementation of a policy, meaning a policy which is 'advanced more due to international pressures than driven by the convictions of local politicians or voluntary decisions of the central government'.

## **2. Methodology of the study**

The current article was developed based on the results of a larger study, conducted between 2014 and 2015 in Romania, as part of a research project focusing on the dysfunctionalities that impede the labor market access of disabled persons in Romania and the institutional arrangements and structural mechanisms that underpin these dysfunctionalities. Using a qualitative approach based on an institutional ethnography of social organization of work inclusion practices for disabled persons, the study investigated the way in which the disabled persons' experiences of barriers towards employment and access on the labor market are connected to or derive from institutional arrangements or practices.

Institutional ethnography (IE) is a 'method of inquiry' (Smith, 1990, 2005) that attempts to describe the 'interface between individuals' experiences and institutional

relations' (McCoy, 2006, p. 109). The purpose of institutional ethnography is to investigate the 'empirical linkages among local settings of everyday life, organizations, and translocal processes of administration and governance' (DeVault and McCoy, 2006, p. 15). The starting point is always from the perspective of a certain group of people, in this case, the disabled persons. However, the purpose of IE is not to generalize on a particular group of people, but rather to illuminate the social and organizational arrangements that transcend individual experiences, finding and describing the social processes that have 'generalizing effects' (DeVault and McCoy, 2006, p. 18).

A total number of 95 interviews were conducted, 24 of them with disabled persons and/or family members and 71 with representatives of various institutions, relevant for the employment of disabled persons (education, employment, social services, employers, etc.). The interviews were recorded, transcribed verbatim in Romanian and translated in English. The analysis of the data collected through the interviews was conducted in a mixed team, involving Romanian and Norwegian researchers. The findings of the study were disseminated as each of the research stages came to an end and all research reports can be accessed on the project's web-site, at [www.e-equal-see.ro](http://www.e-equal-see.ro).

The results of our research showed that the challenges faced by the disabled people when accessing the Romanian labor market are present at individual, institutional and systemic/ structural levels and we have dedicated a separate report to the analysis and interpretation of each level (Alexiu *et al.*, 2014; Alexiu *et al.*, 2015a; Alexiu *et al.*, 2015b).

The current article focuses on the topic of labor market access of disabled Romanian persons predominantly from the perspective of IE, drawing on the empirical results of each research stage and aiming to identify and explain the specific ways in which the individual experiences of the Romanian disabled persons, in society and on the labor market, are influenced and shaped by the social relations of textually mediated discourse, practiced in a designated 'complex of extra-local relations that provide a specialization of organization, control and initiative' (Smith, 1990, p. 6) and thus constitute the 'relations of ruling' in D. Smith's perspective. That is to say, apart from those analyzed in the current paper, there are many other factors and mechanisms that connect and interplay, creating the exclusionary framework that currently dominates the Romanian labor market and hinder or impede the access of disabled persons.

The presentation of the findings is organized in four sections, each of them dedicated to a specific facet of the underlying problem under analysis: (1) legislative and institutional arrangements for defining and reporting the statistics regarding the disabled persons; (2) administration of the process of obtaining the official status of disabled (or, better said, 'handicapped') and the issues it encumbers for each concerned party; (3) the shadows cast by the 'handicapped' status on the employment process; and (4) a short overview of some of the approaches used by the public sector in stimulating the employment of disabled persons as well as the contribution of the private sector in the field. The last section is dedicated to the concluding remarks regarding the findings presented and the overall policy improvements that could be built on them.

### 3. Findings of the study

#### 3.1. *Romanian national challenges and inconsistencies in statistics and data collection on the situation of disabled persons*

Article 31 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), on Statistics and data collection, stipulates this type of activity as incremental for the purposes of the correct policies implementation (UNCRPD, 2006, art. 31), since the first step in finding a solution to a problem is to know the details of the respective problem.

However, as other authors have already indicated (Fujiura, Park and Rutkowski-Kmitta, 2005; Mont, 2007; Madans, Loeb and Altman, 2011), the task of collecting accurate and relevant data on disability has proven to be quite a challenge: because the different entities that cover the data collection process have different definitions of disability, and, because the statistical data is collected for different purposes, most often the statistics on disability are not comparable. Moreover, even when the intention is to measure the same concept, the questions used may differ in ways that negatively influence comparability (Madans, Loeb and Altman, 2011).

The comparability of data on disability in the European Union member states has raised a lot of interest in the last few years (CSES, 2009). The EU law does not provide for a harmonized definition of disability and persons with disabilities (European Commission, 2014). Due to the lack of a unitary approach regarding disability statistics in the member states, we will find different reports about the number of disabled EU citizens: their percentage in the total European population varies from 14.5% (EC, 2003) to 16.6% according to some reports (European Commission, 2010).

In EU-SILC 2011, about 26% of persons aged 16 and over declared an 'activity limitation', a term that does not expressly take into account any interaction with barriers typically addressed by the social model of disability (European Commission, 2014).

The challenges in obtaining reliable and comparable data on disability, because of definitional differences of disability between member states as well as differences in statistical approaches to data collection, (CSES, 2009) have been tackled through focused policies and objectives. Thus, the EDS 2010-2020 specifically takes into account the challenges raised by the statistics and data collection on disability and names it among one of the four general instruments the relevant EU authorities and the EU member states will use in the implementation of the Strategy (European Commission, 2010).

In accordance with the international and European trends, the current proposal for the Romanian National Strategy regarding the Disabled Persons (RNSDP) – 'A Society without Barriers for Persons with Disabilities 2015-2020' also acknowledges the importance of accurate statistical data collection, through its 8<sup>th</sup> objective (RNSDP, 2015).

Moreover, the same document acknowledges the existence of a recurrent inconsistency in Romanian policy for disabled persons, caused by the use of the term 'handi-

cap' (in Romanian) as the translation for 'disability' (in English). The use of this term (handicap) is most obvious in the main Romanian legislation that protects and promotes the rights of the disabled persons (Law no. 448/2006) and has continued to be used even after Romania ratified the UNCRPD (in 2010), despite the fact that, for the specific purposes of the ratification (in the national law acknowledging the UNCRPD ratification – Law no. 221/2010), the Romanian authorities managed to temporarily change the discourse – within the law, the legislator uses the concept of 'disability' instead of the previously preferred 'handicap'. The following policies and legislative documents enacted after 2010 continue to use the concept of 'handicap'.

The RNSDP 2015-2020 is the first policy that acknowledges this inconsistency, promises to address it in the future, and explains it through the existence, in the Romanian Constitution, of a specific article (article 50) that guarantees the protection of the 'handicapped persons', so that all national legislation had to follow the same trend which, in this case, meant also to synchronize the discourse. It is an important step from the previous Romanian Strategy on the protection, integration and social inclusion of persons with handicap 2006-2013, which had no reference to the 'handicap-disability variation', or to the inconsistencies of Romanian disability statistics as compared to those from other European countries.

As previously mentioned, in Romania, the term 'disability' is just a theoretical concept and not an operational one, since it does not relate with most of legislative provisions regulating the area of social intervention with this group; based on the current legislative provisions, just the term 'handicap' is operational (can be applied, proved/ tested or worked with). Thus, the Romanian legislation, as it is today, produces an important distinction between the two concepts – 'handicap' and 'disability': while the *handicap* is 'in tune' with all legislation providing rights to the disabled persons (the Romanian Constitution, Law no. 448/2006 regarding the protection and promotion of the disabled persons' rights, and all the subsequent legislation on the functioning of the various institutions involved in the process of evaluating the disability and granting various benefits), the disability is a concept used just in two relevant laws – Law no. 221/2010 on the ratification of the UNCRPD and Law no. 292/2011 on Social Work. Since none of these laws specifically defines the concept, nor expressly provides means of proving it, the term remains just theoretical, because, due to these current arrangements, no Romanian disabled person can claim his rights under any of the two laws, unless he is first recognized as handicapped, under the provisions of Law no. 448/2006.

In the statistical accounts at the EU level, the 'disabled persons' are defined as: (1) People having a basic activity difficulty (such as seeing, hearing, walking, communicating) and/ or (2) People having a work limitation caused by a longstanding health condition and/ or a basic activity difficulty (Eurostat, 2011a). In the Romanian legislation, the 'persons with a handicap' are defined as 'those persons who, because of physical, mental or sensory impairments, lack the skills to normally perform everyday activities, requiring protective measures in order to support their recovery,



social integration and inclusion' (Law no. 448/2006, art. 2). However, the provisions of the same law also state that the persons with handicap can enjoy the rights specified in the law only based on the official recognition of his/ her handicap, through the issuance of a handicap certificate (Law no. 448/2006, art. 85 and 89).

The discrepancy between the definition and use of the two concepts could explain why, in 2011, when the European Union Labor Force Survey (EU-LFS) included an *ad hoc* module (AHM) on employment of disabled people, the measurements made in 28 EU member states plus Turkey, Iceland, Norway and Switzerland, showed that in Romania, an estimated 18.6% of the population were (self)reported as disabled (Eurostat, 2011b) – 'with a longstanding health condition' (7.6%), 'with a basic activity difficulty' (1.3%) or both (9.7%) – while the Ministry of Labor reported (in the same year), a rate of 3.22% 'handicapped persons' in Romania (MLFSP, 2011).

Recently, the forced attempt to adapt the local realities to the 'politically correct' discourse, changing just the form, but not the content, has created some very puzzling situations for an external observer: for example, starting with the third quarter of 2013, the statistics of the Ministry of Labor on the situation of disabled persons in Romania changed the title from the former 'Protection of the persons with handicap' to the current 'Protection of the persons with disability', but referring to the same aspect – the persons for which a handicap certificate was released. In a single move, the ideological border between the two concepts was removed, the terms were overlapped and made equivalent, thus making the real situation of the terminology even harder to grasp!

It appears obvious that, currently, Romanian policies lack a centralized vision on the conceptualization of disability and struggle in conciliating the global trend (based on the social model) with the local practice (heavily influenced by the medical model). This struggle is even more visible through its effects on the current statistics and data collection process, which present fragmented segments of information (as for example, the number of persons with a handicap certificate, by type and degree of handicap; the number of persons with an invalidity pension; the number of persons with a handicap certificate registered with the Public Employment System (PES) agencies as looking for a job, etc.), but lack comprehensive, aggregated information (as, for example, regarding a clear estimation on how many persons with a handicap retained their work capacity, the real number of disabled persons – or even persons with a handicap certificate – that have a job, or the actual unemployment rate among disabled persons) that would be much more helpful in designing effective policies.

### ***3.2. Some insights on the administrative process of becoming officially disabled ('handicapped') in Romania***

According to the Romanian legislation, the disability in itself, even if acknowledged by medical records, is not enough for the disabled person to access the facilities he/ she is entitled to because of his/ her vulnerable situation. The handicap certificate is the formal recognition of the disabled person's condition. In spite of the fact

that the handicap certificate gives the disabled person the entitlement of accessing the benefits and services established by law, some of our research subjects account they had hesitations in getting the certificate, because they did not want to 'formalize' their deficiency in this way, and to be subjected to stigmatization and rejection by the members of the community, once their disability was recognized by an official body.

Although the formal recognition of the statute of disabled person (gained with the issue of the handicap certificate) exposes the person to the discriminative behavior of the community members, still, there seems that there are a lot of motivations (mainly financial) in obtaining this certificate: the handicap allowance, various fiscal or financial facilities, the medical insurance, the possibility of registering with some organizations and institutions that provide free of charge various services to the disabled persons.

In some cases, the informants were motivated to apply for their handicap certificate by organizations that went into contact with them in order to provide employment services. Due to the fact that the services were financed through the European Social Fund 2007-2013 and the eligible target group was defined as 'handicapped persons' and not 'disabled persons', the beneficiaries that sought the employment services first needed to get the certificate. Thus, the context of the ESF financing could be a possible explanation for the increase of the number of persons with disability who obtained a handicap certificate, during the last 7 years (the life-cycle of the financing program). The increase was notable – from a total of approx. 600,000 persons in 2008, when the program started, to almost 760,000 in 2015, when the program ended (MLF-SPEP, 2015).

The process of obtaining the handicap certificate (as depicted by both types of interviewees – the disabled informants and the representatives of public institutions involved in releasing the certificate) is complex and time-consuming. The accounts of the disabled informants about the experience with the assessment and the attitude of the staff involved in the process are vivid, presenting the story of a staff that has rather an authoritarian and patriarchal attitude towards their beneficiaries, treating them with superiority and suspicion, instead of taking the responsibility of informing and counseling them about their rights. The final and often the only result of this complex assessment process is the access of the disabled person (now officially recognized as 'handicapped') to the financial benefits he/ she is entitled to, due to the recent change in his/ her status.

The access to information regarding the rights and facilities for the disabled people is reported as difficult by the disabled informants interviewed. Sometimes, the information about their rights comes from various institutions and organizations, other than those that have as main activity the protection of the rights of the disabled persons. This situation creates, among the disabled, a high level of confusion about the legislative provisions that protect them and stipulate their rights. Because of this, the informants find the employees of the institutions created to protect and promote their rights shallow and unavailable in providing them with information and counseling. In order to compensate the difficult access to information, the disabled per-



sons use the practice of peer verbal dissemination of legislative provisions, obtaining their advice second-hand, from other disabled persons that have already experienced the process of accessing a certain right.

### ***3.3. Dysfunctionalities and occurrences of discrimination in the employment process of disabled persons***

The results of the study show that discrimination against the disabled persons is still embedded in the Romanian culture and, with it, in the institutional practices of the entities working with and for the disabled persons, including those involved in the process of labor market integration, with some legislative provisions hosting the climate that not only allow for, but also encourage such practices.

Typically, for any Romanian citizen who enters the job market, the process of employment involves an examination made by a work medicine doctor (in English literature, the most popular term for this specialty is Occupational physician), finished with the release of a medical certificate stating that the candidate is able/ fit to carry out the activities that are specific to the job.

The enforcement of this examination is very clearly made by different types of legislation (The Labor Code – Law no. 53 from 2003; the Government Decision no. 355 from 2007 regarding the monitoring of the health status of the employees), that are convergent regarding the result: a person can be employed only if he/ she holds a medical certificate which ascertains the person is able to carry the type of activity he/ she is hired for. Moreover, the main law that regulates work relations (The Labor Code – Law no. 53 from 2003) clearly stipulates that if such a certificate is not issued, the work contract is void (article 27, paragraph 2).

The relevance of the pre-employment medical examination has been amply discussed by various international authors (Pachman, 2009), since the researches regarding its use found that it lacks clear effectiveness (Shepherd, 1992) and, at the same time, supports potentially biased judgments (de Kort and van Dijk, 1997) regarding the decision to hire a candidate.

However, what is more worrisome about the use of this evaluation, is that the Romanian legislation enforcing this practice (Law no. 319 from 2006 regarding work security and health) motivates that it does so as a response to the requirements of the European Commission regarding the harmonization of implementation of European Legislation (specifically the Directive 89/391/EEC – OSH ‘Framework Directive’ of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work). But, while the Directive mentions clearly that its purpose is to ‘encourage improvements in the safety and health of workers at work’ (article 1, paragraph 1 of the consolidated version), highlighting that its preoccupation lies primarily with the employee and the insurance of his protection, the Romanian legislator has found appropriate to add a new nuance to the concept of ‘protection’: thus, the Romanian Law no. 319 from 2006 regarding work security and health stipulates that one of the obligations of the employers (related to ensuring the health and security conditions in the work environment and preventing work accidents and

professional diseases) is 'to hire only persons who, after the medical examination, and, if the case, psychological testing of aptitudes, were found to correspond to the work task they are going to execute' (article 13, letter J). So, basically, this process of selection based on medical judgments is promoted, under this law, as a 'protective measure' for the employee.

In addition, it would be relevant to add that the European Directive 89/391/EEC from 1989 (the foundation of the Romanian Law no. 319 from 2006), has no specific reference to any type of medical pre-employment examination (or any other type of pre-employment examination whatsoever), and all references to the measures for the prevention of the occupational risks are related to the workplace itself and not to the persons occupying it.

In a clear misinterpretation of the European recommendations regarding the health and protection of workers, the Romanian legislation allows for the selection of employees, based on the medical model of ability or inability of a person to fulfill the tasks related to a specific job. The main responsibility, in this case, lays with the medical specialist (work medicine doctor), who, at the pre-employment examination, has to decide if the candidate for a position is fit or unfit to fulfill the related tasks.

From the interviews with the representatives of the PES agencies, it appears the medical perspective overrules not only the hiring process, but also the job search process: thus, the disabled person who accesses the employment services provided by PES agencies has to document his disability and declare his work 'limitations' from the beginning of the process. Moreover, after the medical expert has provided the documentation about the person's 'limitations', the employees of PES agencies act in their capacity of (secondary) experts and make subsequent judgments regarding the work 'limitations' of the person, basing their further recommendations and counseling on them; as one of our interviewees (representative of a PES agency) puts it: 'We have to keep in mind that limitation (...). In some cases, I don't even need to send him to that job [for the interview] because the person cannot do these things from the beginning'. This informant describes that, basically, he is the one making the decision whether the disabled applicant would be able to comply or not with the job requirements and subsequently chooses not to inform about the job vacancy the persons who, in his perspective, would not handle the tasks.

Meanwhile, from the perspective of the employers, it seems also natural to be in the position of evaluating the capacities (mainly physical) of a candidate, and make their judgments based on this evaluation. The judgments could be related to the decision of hiring (or not) the candidate who is physically fit to handle the job tasks, or could relate to the decision of choosing the appropriate tasks for the needs and capabilities of the disabled employee. The line between these two possible approaches is very thin and the most confusing fact about it relates to the explanation regarding the 'protection' of the employee: he could be protected through his placement to a workplace adapted to his needs or he could be protected through not hiring him at all, because he is not medically 'fit' for the job. Ironically, the Romanian legislation allows

for both approaches to co-exist, so it falls under the responsibility and inclination of the employer which one to choose.

### ***3.4. Public and private approaches in increasing the employment of disabled persons***

The national programs and measures addressed to encouraging the employment of disabled persons are based on two fundamental approaches: (1) the positive reinforcement and (2) negative reinforcement of the inclusive ideology. (1) In the first category, the financial incentives addressed to employers in order to increase employment among disabled persons are managed by the PES agencies, as established by the legislation in force. However, the interviews with the PES representatives indicate a low level of interest of the employers in these incentives, mainly because of the employers' perception on the procedure for accessing such incentives as too complicated, while the obligation regarding the periodical reporting is seen as a supplementary burden that, especially the small employers are not able to carry out. (2) The quota system is a legal provision also designed to increase employment for disabled persons. According to this system, in Romania, each employer with more than 50 employees is required to hire disabled persons in order to fulfill a minimum share of 4% of the total number of employees. In case it does not manage to reach this 'quota', he has two choices: pay a contribution to the state budget, equivalent with an average salary, for every employee he hasn't hired or, buy, from the same amount, products or services produced or provided by Protected Units employing disabled persons. It is considered that, in this way, the employment of disabled persons would be stimulated through the support given to the Protected Units. These units have an accreditation procedure that stipulates that a 33% rate of disabled employees is fundamental for receiving the license. Due to this method, the potential competitive advantage the Protected Units lose by hiring disabled persons (who are maybe not so productive as non-disabled), is re-gained by defining a category of buyers who can be accessed only by them. Still, the interviews with the representatives of the PES agencies show that most employers prefer to pay the penalties or buy the goods or services required to fulfill the quota, rather than hire disabled persons.

The results of the study are confirmed by similar research done in Romania (SAR, 2010), that emphasize the questionable rate of success of the legislative measures designed to encourage the employment of Romanian disabled persons.

The efforts made by the public institutions in remedying the situation of the disabled persons on the Romanian labor market are complemented by the efforts made by the non-governmental organizations towards the same purpose. Many of the accounts of our disabled informants show the incremental role of local non-governmental organizations in their integration on the labor market (Alexiu *et al.*, 2015a). Thus, the role of these organizations is significant not only for the progress achieved so far in practice, but also for the increasing preoccupation on researching the topic and improving the legislative framework.

#### 4. Conclusions and recommendations based on the findings of the study

The analysis of the empirical results shows that, undeniably, the medical model of understanding disability is very influential in Romania, both in practice and in social representations, in which the impairment remains a solid rationale that justifies the use of patriarchal attitudes by the non-disabled (especially the 'experts' in various fields), towards the disabled persons.

Moreover, under the influence of these social representations, a particular type of consonance between the legislative provisions, institutional arrangements and local practices, allows for the concept of 'protection' of the disabled persons to be so stretched out that it transcends its initial purpose and philosophy and starts working against the disabled persons.

The results of the study show that, rather than being preoccupied with putting into action the commitments undertaken by our country when ratifying the UN-CRPD, our policy makers, legislators and, subsequently, the representatives of the local public institutions who directly work with and for the disabled persons, are more concerned with adapting the discourse, than adapting the work methods and practices to the international trends.

This attitude could be the result of what Profiroiu and Profiroiu (2006) call a reactive implementation of a policy, meaning that policy was 'advanced more due to international pressures than driven by the convictions of local politicians or voluntary decisions of the central government' (Profiroiu and Profiroiu, 2006, p. 121), which could be also the case for the current Romanian policies in the area of disability.

Also, the lack of consistence in defining and identifying the disabled person in the text of the law fundamentally impedes an accurate knowledge of the real situation of this vulnerable group, and ultimately a consistent vision, backed by a homogenous approach, in dealing with or managing the multiple issues associated with disability in Romania (e.g., poverty, low educational attainment, high unemployment rate, discrimination, etc.).

Based on the observations presented in the current article, at least two important recommendations for further improvements of national policies could be formulated: (1) Accelerating the policy reform envisioned internationally by the UNCRPD, at European level, by the EDS 2010-2020, and at national level by the Law no. 221/2010. The new RNSDP could prove instrumental towards this aim. If correctly designed and formulated, based on the inputs resulted from research and collected from the NGOs working for and with disabled persons, the new RNSDP could make the important step, moving the approach of disability from the heavily criticized medical model towards the more appreciated, human rights-based social model; (2) Ensuring a finer tuning between the legislative provisions and their formulation, comprised in some organic laws (including the art. 50 from the Romanian Constitution, and the Law no. 53/2003, Government Decision no. 355/2007, Law no. 319/2006, Law no. 448/2006) with the main legislative documents that cover the large area of the social inclusion of disabled persons (Law no. 221/2010, Law no. 292/2011) and are inspired by the social

model. Thus, a more consistent progress in achieving the implementation of a rights-based approach could be achieved.

Additionally, a shift from the current *benefit-based* to a qualitative service-based approach of the organization of the Romanian system of protection and promotion of rights for disabled persons, would be an essential change, with a positive impact on the overall level of social integration of the Romanian disabled persons. Towards this aim, many inclusive models and practices supported and developed locally by the non-governmental sector (Motivation Foundation Romania, Pentru Voi Foundation, Alături de Voi Foundation are just a few examples), could prove helpful for the Romanian legislators.

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