

**MENDEL UNIVERSITY IN BRNO**

Faculty of Regional Development and International Studies

**The system of custody of people with handicap in Chile and possibilities of its improvement**

Bachelor Thesis

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## **Annotation**

This bachelor thesis examines the problem of people with disability in Chile. Firstly, this thesis presents the overall information about definitions which cover the problem of disability and its types. Attention is put on World Organizations and its conception of handicap and disability. Secondly, this thesis analyses concrete Chilean laws which are covering the problem of custody of people with some handicap. Attention is paid to government agencies, projects and institutions. Following chapter presents how this problem is handled in Denmark because it is considered to be very developed country in the social and economic sphere. In the last part, based on the information and facts I will try to provide possibilities of improvement in the system of custody of disabled people in Chile.

**Key words:** Disability, handicap, work integration, employment, legislation.

## **Anotace**

Tato bakalářská práce se zabývá problémem postižených osob v Chile. Nejdříve tato práce poskytuje všeobecné informace o definicích zahrnující problém s postižením a také jeho typy. Je zde věnována pozornost světovým organizacím a jejich pojetí postižení. Následující část tohoto dokumentu se zaměřuje na analýzu chilských zákonů, které zaštiťují systém péče o hendikepované. Je zde věnována pozornost státním organizacím, projektům a institucím. Další část poukazuje, jak se tento problém řeší v Dánsku, které je považováno za velice vyspělou zemi, co se týče sociální i ekonomické sféry. Závěrem, v závislosti na faktech a informacích se pokusím nastínit možnosti zlepšení systému péče o osoby s postižením v Chile.

**Klíčová slova:** Postižení, hendikep, pracovní integrace, zaměstnání, legislativa.

## **Acknowledgement**

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## Declaration

I declare that I carried out this thesis: *The system of custody of people with handicap in Chile and possibilities of its improvement*, independently, and only with the cited sources, literature and other professional sources. I agree that my work will be published in accordance with Section 47b of Act No. 111/1998 Coll. on Higher Education as amended thereafter and in accordance with the Guidelines on Publishing University Student Theses.

In Brno, 20. 5. 2015

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Barbora Bílková

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## **Introduction**

This thesis "The system of custody of people with handicap in Chile" will be focused primarily on the concept of disability. I will mention different definitions and concepts of disability, used by different organizations worldwide, whose conventions have been adopted and are a part of the legislative frameworks in Chile or in the Czech Republic.

I will focus on the period after 1989 until the present time, because it was just in 1989 when the military regime of General Augusto Pinochet Ugarte ended. At the beginning the regime was very destructive not only because basic human rights and freedoms were suppressed. The regime changed when Patricio Aylwin, a Christian Democrat, became president. Many economic and social reforms were made. People with disabilities became a matter to be dealt with. They are a part of our society and, taking into consideration their quantity, they are also an important group of population. According to the First National Study on Disability in Chile, 2004, and also the Casen statistical data of 2011, it is stated that in the territory of Chile, about 13 % of population have some kind of disability. It is really a significant percentage, just for comparison, according to a recent survey by the Czech Statistical Office based on the data collected in 2013, in the Czech Republic there is about 10.3 % of disabled people. My thesis will focus on the analysis of Chilean laws and measures in the field of care of persons with disabilities. The question is if the attention that is paid to this group is sufficient.

There are many non-profit groups and different organizations that provide the disabled with care and assistance, both material and financial. However, all this help should be based on state help, because protection and assistance to citizens is the basic purpose and reason why states were created as a result of a long evolution of human civilization. And it should be all the more so in case of disabled or handicapped people. Due to their handicap, these people are often hardly able or even unable to take care of themselves. And here the role of the

government is indispensable. The state must make an effort to improve the conditions for people with disabilities, especially by means of transparent legislation. Unfortunately, the plans are not always successful.

One of the most important resources which my thesis is based on are internet publications in the field of social security, projects and institutions of the Ministry of Social Development. Other important resources regarding this topic are numerous legal regulations.

The main method, used for this thesis, is an analysis of different law regulations. The main goal is to highlight important legal regulations on social benefits and recruitment of persons with disabilities. I will try, within a brief overview of social care in Denmark, which I chose as an example because it is considered one of the very developed countries, to outline the possibilities of improvement of the situation of people with disabilities in Chile.

In their daily life, the persons with disabilities must face many other problems which cannot be all included in this thesis. That is why the thesis is focused mainly on recruitment of persons with disabilities and on social benefits which these persons are provided with. I am aware of the fact that the issues related to the care of disabled people are much wider and the benefits are just one of their partial, but undoubtedly very important, aspects.

# 1 Disability

The concept of disability is not unequivocal and can have different meanings in different contexts. People suffering from disabilities constitute a specific and internally very varying group of citizens who have a considerable part of identical characteristics that make them different from people without disabilities. It should be stated, however, that disability also affects other people, since disabled people often live in families. The number of people who are affected by disabilities in social or economic spheres is, overall, much greater than official statistics.

Disability itself predisposes many things. A disabled person is in a very limiting situation. He must not only allow for the given limitations, but also adapt to them and try to find ways to compensate them. However, this is not always possible, since it depends not only on the individual and his ability to deal with the disability, but also on the attitude of the others. A person with disabilities is still subconsciously perceived by people as an object of care, and is very difficult to get over these prejudices in our society (Michalík, 2010).

In both Czech and foreign literature we can find disunity in using such concepts like disability, persons with disabilities, disabled persons. Generally, it is possible to say that neither in the Czech Republic nor in Chile there is no unanimous definition of disability. The problems of people with disabilities are dealt not only by a wide range of scientific disciplines (psychology, special education, medicine), but primarily by the politics. It includes, e.g., the health, educational and social resorts, as well as the labor market policy. When making any decision, all these sectors must take into account this group of people. (Disabled World, 2014).

## 1.1 Classification of the concept of disability

There are various classifications of the concept of disability, but the most famous ones are classifications according to medical model of disability, multidimensional model of disability and legal model of disability.

The medical model, or more precisely, the model based on the predominant disability, is one of the most common models. It is a certain way of internal classification of people with disabilities. In accordance with this model, most commonly we can encounter the following disabilities (ENDISC, 2004): physical, visual, mental, hearing and speaking disability.

But we should not ignore other groups such as those who suffer from combined disabilities or from lifestyle diseases.

Another classification according to the medical model is the classification according to the level of disability. There are three levels of disability: mild, moderate, and severe. (ENDISC, 2004) Nevertheless, this classification of disability is very general. Each category includes other groups of diseases, conditions, persons and disabilities.

It is possible to distinguish two categories of disability according to the moment when the disability began: congenital and acquired disability.

Then multidimensional model is a model that connects the medical model to the conditions that are created by the social environment. Disability significantly affects the individual and his living conditions with an emphasis primarily on economic, cultural, social and political environment. Disability is a certain disadvantage, which impacts not only on self-fulfillment, but it also has a negative effect on education and a possibility to find employment. In this case, it should be noted that a disabled person does not perceive his disability itself, but he notices all the complications that result from the disability. We can say that disability causes a social disadvantage, which depends on different factors. It is

influenced e.g. by age, gender, psychosocial factor, cultural-social factor of labor factor. This multidimensional model serves as a basis for the current International Classification of Functioning, Disability and Health. (Disabled World, 2014)

## **2 Persons with disabilities - legislative definition of the term**

Individual and somewhat different definitions are contained in several different acts on social security and are defined by persons with disabilities only for the purposes of the given act. To be able to theoretically define this concept, it will be necessary to have recourse to a number of regulations, from international documents to national legal regulations. As there is a huge quantity of international, European and national documents governing human rights and the vast area of social security, for the purposes of the thesis this chapter will only refer to those documents that are in some way engaged in the definition of the concept of a person with disabilities, or more precisely, the concept of disability.

### **2.1 European Documents**

In this context it is necessary to mention that after the events of the Second World War, the issues related to the problems of disabled people and increased protection of their human rights started to be intensively dealt by the supranational organizations in Europe, first by the Council of Europe, later by the European Communities and currently by the European Union. These documents are focused on the whole range of human rights, including the rights of people with disabilities, and recognize the need to provide increased protection to specific groups of people with disabilities, but usually do not define the concept of disability or persons with disabilities. In recent years, within the European Community and now also the European Union, an increased attention is paid to issues related to disabled persons. The adopted documents are not legally binding. However, they are important as they aim to harmonize the legislation of the member countries in relation to persons with disabilities.

For illustration, I will mention here the Decision of the Council of 26 November 2009 on the conclusion of the United Nations Convention on the Rights of Persons with Disabilities by the European Community 2010/48/EC.

This document represents the official acceptance of the UN Convention by the European Community. (Eur-lex.europa.eu, 2010)

Other documents that can be mentioned in this context are the Attitude of the European Economic and Social Committee on Equal Opportunities for People with Disabilities 2007/C93/08 (Eur-lex.europa.eu, 2007) and the Attitude of the European Economic and Social Committee on Harmonization of Disability Indicators as a Tool for Monitoring European Politics. (2007/C10/20) Article 2 of the second of the above mentioned documents states, besides other things, that: *“Persons with disabilities represent more than 15 % of the total population and the number is still increasing in accordance with population ageing. This means that in the enlarged EU there are more than 50 million of disabled people ...”* (Eur-lex.europa.eu, 2007)

## **2.2 World Health Organization (WHO) Documents**

At the international level, the World Health Organization (WHO) established in 1980 the International Classification of Impairments, Disabilities and Handicaps (ICIDH). This document contains the following three basic definitions of types of disability:

- Impairment: Any loss or abnormality of psychological, physiological or anatomical structure or function.
- Disability: Any limitation or loss (resulting from an impairment) of ability to act and perform activities in a manner and to the extent that is considered normal in humans.
- Handicap: Any disadvantage for an individual, arising from his impairment or disability that limits him or prevents him from fulfilling the role that is considered normal for his age and sex (with respect to specific social and cultural contexts).

Among these three categories, established by the document, there is a direct link and they are interconnected one with each other. This classification is considered by the WHO an important tool for many applications, including clinical diagnosis and evaluation of rehabilitation, making records in the field of health, and thus represents an important step towards the unification of terminology in the area of disability. (WHO, 1980)

Since its adoption, the above mentioned classification has been submitted to multiple revisions, the most important of which was made by WHO in 2001, when the International Classification of Functioning (ICF) document was endorsed. The ICF document is a framework for measuring health and disability at both individual and population level, which was officially approved by all 191 WHO Member States at the 54<sup>th</sup> World Health Assembly on 22 May 2001. The classification according to ICF has been approved for use in all Member States as an international standard used to describe and measure health and disability degree. (WHA 54.21, 2001)

WHO's updates are regularly published once a year, always after having been discussed and approved at the annual meeting. These changes are classified as major and minor. The validity of the minor changes is limited to one year (always till 1 January next year), the major changes are approved for 3 years. (ÚZIS, n.d.)

On the basis of the ICF document, the Czech Statistical Office in cooperation with the Ministry of Health introduced the International Classification of Functioning into our legislation with effect from July 1, 2010 in the form of communication No. 431/2009 Coll., from November 18, 2009. According to the communication, this classification is a part of the WHO classification documents and is intended to measure disability at both individual and population levels. The ICF classification is intended for evaluation of the degree of disability, assessment of fitness for work and special educational needs, prescription and reimbursement of medical devices, for the purposes of health insurance, for state

of health examination as a basis for assessment in the field of benefits and employment social security services provision, for assessing the long-term poor health for social security and employment and for statistical purposes in health evaluation. (MZČR, 2009)

### 2.3 UN Documents

In 1993 the General Assembly of the United Nations approved the Standard Rules on the Equalization of Opportunities for Persons with Disabilities. The standards are designed to make the Member States focus on the adaptation of various measures to protect the rights and opportunities of these people. In article No. 7 it is established that "... states as employers must create favorable conditions for the employment of people with disabilities in the public sector." (ILO, 2003)

One of the key international documents in this field, which was also accepted by the Czech Republic and is thus a legally binding document, is the Convention on the Rights of Persons with Disabilities (hereinafter referred to as "the Convention") approved by the United Nations ("UN") in 13 December 2006 in New York. The Convention entered into force by virtue of Article 45, paragraph 1, on 3 May 2008. In the Czech Republic it entered into force on 28 October 2009, in accordance with paragraph 2 of the same article. (MVČR, 2009) After being published in the Collection of Laws and International Treaties and adopted on 12 February 2010, the Convention became a part of the legislation of the Czech Republic, published in the collection under No. 10/2010 Coll. Int. Treaties, notification of the Ministry of Foreign Affairs on the Convention on Rights of Persons with Disabilities. (MVČR, 2009).

In Article 1, the Convention defines disabled persons as follows: "*Persons with disabilities are those who have long-term physical, mental or sensory impairments which in interaction with various barriers may prevent them from full and effective participation in society on an equal basis with others*". In Chile this Convention was ratified in 2008. In relation to work and employment, it

controls that the right to work under equal conditions and with equal opportunities is respected. And it adds that the society is open, inclusive and accessible to persons with disabilities in the workplace. In addition, it ensures "that persons with disabilities are not subjected to slavery or servitude, and are protected from forced or compulsory labor on an equal basis with others." (MVČR, 2009)

## **2.4 Pan-American Convention**

Pan-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities was adopted by the National Assembly of American States on June 7, 1999 and approved by the National Congress on November 29, 2001. In Chile it was adopted on June 7, 2002. This convention moves forward the way to eliminate social discrimination against this part of the society. The states should prevent this situation. It establishes that people with disabilities have the same rights and fundamental freedoms as others. In article no. 1, sentence 2, it defines the term of discrimination against persons with disabilities as "any distinction, exclusion or restriction based on disability, cause of disability, consequence of previous disability or perception of previous or present disability, whose effect or intention is to deny or nullify recognition to persons with disabilities, prevent them from employment or making use of human rights and fundamental freedoms "(OAS). One way to achieve these goals is "cooperation among states in terms of prevention of disability, its treatment, rehabilitation and integration, as well as development of tools and creation of resources to facilitate and support independent and self-sufficient life and full integration of people with disabilities into society." (OAS, 1999)

## **2.5 Convention 159 of the International Labor Organization**

This Convention was signed in 1983 and ratified in Chile in 1995. In article No. 1, paragraph 2, it is stated that: "... the purpose of retraining is to enable disabled persons to find and maintain suitable employment and to reach

promotion in it ...". Article 3: "This policy is intended to ensure the existence of appropriate measures for retraining for all groups of disabled persons and to support employment opportunities for people with disabilities in the regular labor market." Likewise, its article No.8 states that: "Measures to support the establishment and development of retraining and employment services for persons with disabilities will be adopted in rural and remote areas." (International Labor Organization, 1983)

### 3 National Legislation of Czech Republic

At the national level, the Czech Republic has several legal regulations on social security that contain a definition of persons with disabilities in the meaning of a legislative shortcut. Nevertheless, none of these legislations contains any general legislative definition of this concept.

The definition of persons with disabilities is included, for example, in Act no. 435/2004 Coll., on Employment, as amended. It is determined in this Act, § 67, paragraph 2, that "*persons with disabilities are individuals who are recognized as disabled by the social security authorities*

*a) in the third degree (hereinafter referred to as "persons with severe disabilities"), or*

*b) in the first or second degree "*

while for assessing the degree of disability it refers to the provisions of Act No. 155/1995 Coll., on Pension Insurance, as amended. The insured person is disabled, "*if by reason of long-term poor health his ability to work has decreased at least 35 %. If his ability to work has decreased:*

- at least 35 % but not more than 49 %, it is a first-degree disability,*
- at least 50 % but not more than 69 %, it is a second- degree disability,*
- at least 70 %, it is a third-degree disability " (§ 39, para. 1-2, a. No. 155/1995 Coll., On pension insurance).*

At the same time, the act guarantees to these persons the provision of increased protection in the labor market, which is the task of the regional branches

of labor offices that are required to keep separate records of such persons.<sup>1</sup> The above mentioned Employment Act therefore defines disabled persons as a separate category of protected persons within the meaning of their ability to find an employment in the labor market.

- Act No. 108/2006 Coll., on Social Services, as amended, is other national legislation that contains its own definition of disability (not persons with disabilities). This law, which is one of the fundamental laws governing different forms of assistance to persons with disabilities, states in its § 3. g) within the interpretation of basic concepts that: "*disability means a physical, mental, sensory or combined disability, whose impacts make or may make a person dependent on the assistance of others.*" Again it is a definition of the term only for the purposes of the Act, when disability is determined in relation to possible dependence on the assistance of another person. In accordance with this act on social services, persons with disabilities can be classified according to degrees of dependence. A person is considered dependent "*on the assistance of another person:*"
  - *degree I (mild dependence), if the person is partially helpless,*
  - *degree II (medium dependence) if the person is largely helpless,*
  - *degree III (severe dependence), if the person is totally helpless (§ 120, para. 2, of. No. 108/2006 Coll., On social services). "*

Another law that contains a definition of disability is Act No. 198/2009 Coll., on Equal Treatment and Legal Means of Protection Against Discrimination and Amending Some Acts (Antidiscrimination Act), as amended, which states in § 5. 6: "*For the purposes of this Act, disability means a physical, sensory, mental or other disability that prevents or may prevent persons from making use of their*

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<sup>1</sup> Nevertheless, it is a record of all persons with disabilities, but only those who have registered in the Labour Office as job applicants.

*right to equal treatment in areas defined by this Act; at the same time it must be a long-term disability that lasts or, according to medical examination, could have been lasting at least one year."*

In the above mentioned legislation, there is only one act that contains its own definition of persons with disabilities, the other two mentioned laws define disability, but again only for the purposes of the Act. I consider quite unhappy the fact that Act No. 329/2011 Coll., on Provision of Benefits to Persons with Disabilities and Amending Related Laws, as amended, which is relatively new in this field, does not contain any definition of persons with disabilities or health disability. A general legal definition of this important concept is yet so desirable and would certainly contribute to better compatibility of laws in the field of social security.

## 4 Legal mark of disability in Chile

In this context, when making an analysis of the normative time, it can be clearly distinguished two seasons: the first starts in the year of 1994 with the dictation of the Law number 19.284 on Social Inclusion, and the second since the year of 2008 until the present time, with the confirmation of the Universal Convention of the Rights of the Disabled People, mentioning that the normative rite encouraged a progressive change when it comes to speaking about disability globally.

After the ratification of the Convention about the Rights of Disabled People and with the objective of incorporating its norms and standards, it is published in February of 2010 the Law number 20.422 which “Establishes Norms about the Equality of Opportunities and Social Inclusion of Disabled People”. This law changes the axis of the state action regarding disability, focusing on actuating in guaranteeing the practice of the rights of the people with disabilities. It is based in a universal mark of culture and respect of the human rights of the people with disability, collecting the change of paradigm when it comes to disability and inducing a change in the vision of the state in regards to the matter, from the role of the traditional assistance to an approach focused on people, respecting their rights and encouraging their independence and autonomy.

The law number 20.422 signalizes that its object is securing the right to the equality of opportunities to the people with disabilities, focusing on granting them full social inclusion, securing the enjoyment of their rights and ending any form of discrimination based on disability. For that, it is necessary to understand what is understood as equality of rights: the absence of discrimination having disability as a reason and the adoption of positive action measures targeting the avoidance of compensating the disabilities of a disabled person to participate fully in the political, educational, work, economic, cultural and social life.

*Law number 20.422, first item*

In this matter it is worth to point that in the Title IV of the Law number 20.422; About Measures for the Equality of Opportunities – it is marked that the State will encourage and apply positive measures and actions as tools of the state action to foster the accessibility and the non-discrimination in the following scopes:

1. Accessibility to culture, physical surroundings, transportation, among others
2. Education and academic inclusion
3. Training and work insertion
4. Tariff exemptions
5. Acknowledgment of sign language as the natural way of communication of the deaf community

On this same matter, it is considered the necessity of encouraging and applying positive actions, by the State, benefiting people with mental disability and other types of disabilities, due to the fact that, nowadays, they have little consideration in the politics, programs and plans of the several Services and Organs of the State.

Through another part, the law number 20.422 contemplates 5 principles that conform this normative body, all of them being of mandatory fulfillment in its applicability.

The referred principles are:

1. Independent Life
2. Accessibility
3. Universal Pattern
4. Inter-sectoriality
5. Participation and Social Dialogue.

At the same time, the law shapes the new public institutionalism destined to relieve the disability theme and establishes the creation of the Disability National Service, DNS/SENADIS, the Committee of Ministers for the Disability – which, in the future and according to the law 20.530, implements through the Interministry Committee for Social Development – and the Disability Consultive Counsel<sup>2</sup>, organs that will work to approach the challenges which generate the full social inclusion of disabled people.

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<sup>2</sup> The Disability Consultive Counsel is formed by the National Director of the Disability National Service, five representatives from organizations of disabled people in national character, with the objective of representing equally the groups of people with psychic, intellectual, physical, hearing and visual disabilities, one representative of the business sector and another one from work organizations and two representatives of non-profit private institutions constituted to serve people with disabilities.

## **5 Characterization of disabled people in Chile**

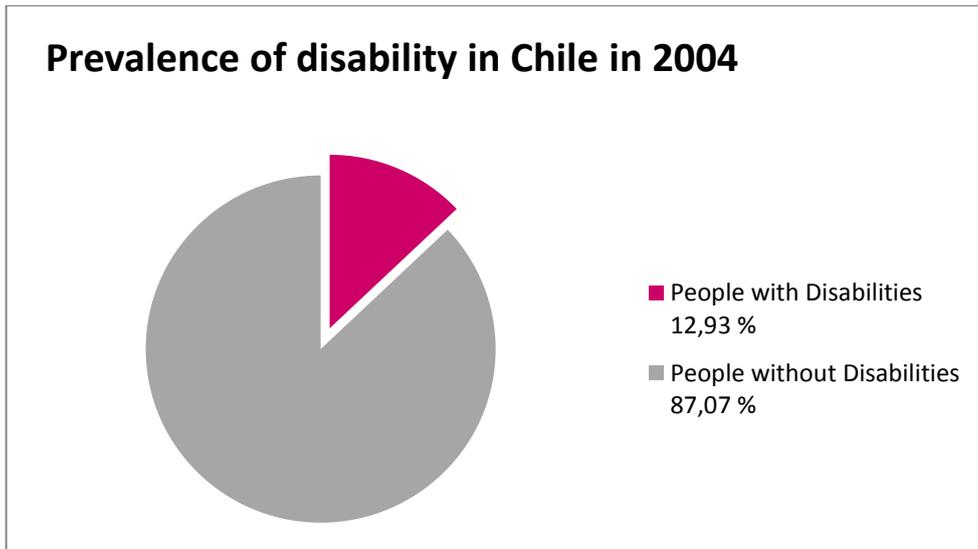
In Chile, from the year 2000, was stated a first enclosure to the measuring of the prevalence of disability, when questions about disability are incorporated in the National Questionnaire of Social Characterization, NQSC/CASEN, and right after at the 2002 Census. But nevertheless, the tool that generates an important change in the measuring of the disability in Chile was the First National Study of Disability – ENDISC – which was executed in 2004, in which was used the “International Classification of Functioning, of Disability and of Health-CIF”, new conceptual mark encouraged by the Health International Organization in 2001.

### **5.1 First National Study of Disability, year 2004**

The First National Study of Disability in Chile of the year 2004, ENDISC, establishes fundamental statistical data to knowing the reality of the disabled people in Chile. Among the data gathered through this poll, the following can be highlighted:

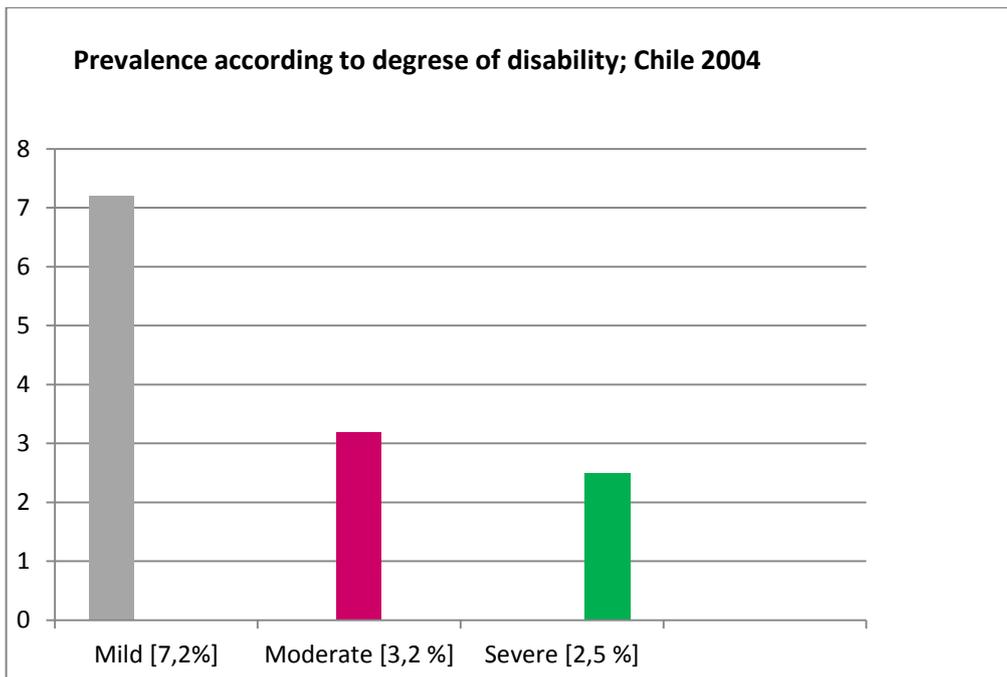
1. 12,9 % of the Chilean population shows disability in any of its levels, in the year 2004. At the same time, 7,2 % shows light disability, as some difficulty to complete their daily activities; 3,2 % show moderate disability, an important decreasing or impossibility of their capacity to complete the majority of their daily activities, coming even to require support in basic self-care work; 2,5% show severe disability, which means that they see severely hampered or as impossible the completion of their daily activities, requiring support or care of a third person. Both of these indicators are shown in the charts below.

**Chart No. 1 - Prevalence of Disability**



*Source: ENDISC, 2004*

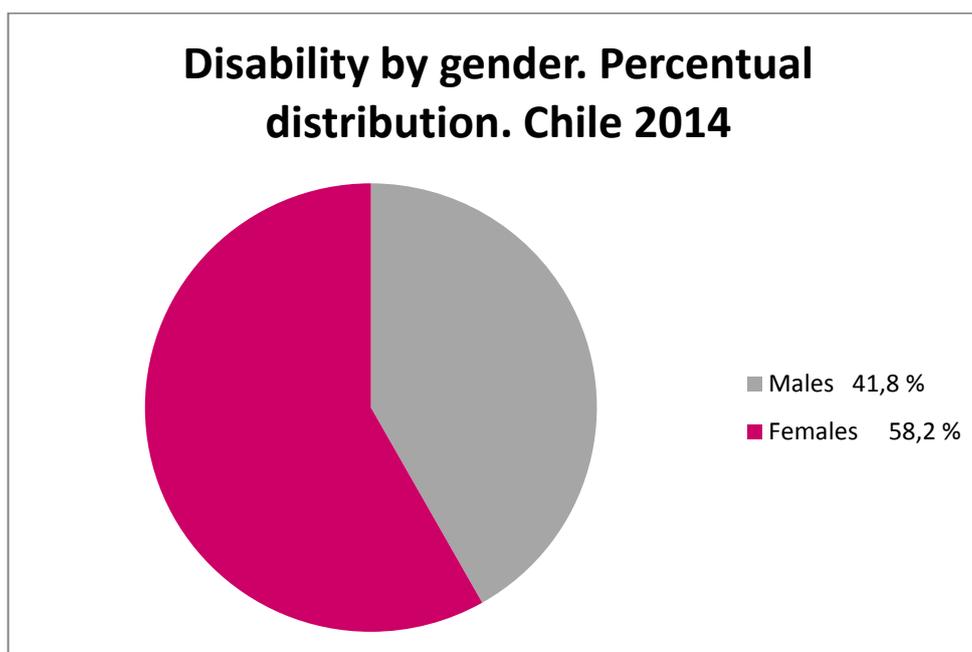
**Chart No. 2 - Prevalence according to degree of disability**



*Source: ENDISC, 2004*

2. One important characteristic that the study reveals when it comes to the composition of the population with disability is related with the concentration of the disability in the lowest socio-economical levels. In Chile, 39.5% of the disabled people present low socio-economical condition. More than half of the disabled people are found in the middle socio-economical level, and in the highest one, 5.1 % of disabled people are found.
3. Among the disabled people, 58,2 % are women and 41,8 % are men, being the disability prevalence rate higher among women, 14,9 % (1 among 7 women), while among men it is of 10,9 % (1 among 9 men).

Chart No. 3 – Disability by gender



Source: *ENDISC, 2004*

4. Regarding age, 51,0 % of the disabled people is found in the ages of 30 – 64 years old, and 86,1 % of the disabled population in Chile is older than 29 years old.

**Table 1 – People with Disability according to age in percentage distribution in Chile 2004**

	N	%
0 to 5 year	22.730	1,1 %
6 to 14 year	94.723	4,6 %
15 to 29 year	171.294	8,3 %
30 to 64 year	1.054.014	51,0 %
65 year and more	725.311	35,1 %
Total	2.068.072	100 %

*Source: ENDISC, 2004*

5. Regarding work access, while 48,1 % of the total population of the country older than 15 years old does some paid work <sup>3</sup>, only 29,2 % of the disabled people do so. In other words, seven in ten disabled people do not expect to generate income in an autonomous way. This situation gets more complex when 43,9 % of the disabled people are the head of the family, in which 66,2 % are qualified workers.
6. The problems of access to education in this segment of the population are part, among others, of the determining factors in the reproduction of the poverty and, particularly, in the configuration of a higher risk of vulnerability of the disabled people. In the time of the realization of the study (August/September of 2004), only 8,5 % of the disabled people were studying, numbers quite different of the 27,5% of the total population of the country that was studying at the same time. The most relevant in this matter refers to the educational gap that needs to be covered: 9, 8 of the disabled people do not have any study/education; 42,7 have not completed basic education; only 13, 2 % have completed high school; and only 6,6 % entered higher/superior education

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<sup>3</sup> These values are calculated based on the population older than 15 years old.

(only 2,1 have completed it), counting that among the non-disabled people this number doubles, going up to 14,2.

7. Regarding access to health, only 67,1% of the disabled people have received basic health attention, 40,6 % have received some type of diagnostic service, and just 6,5 % have received rehabilitation services, which means one in every fifteen disabled people.
8. When it comes to accessibility to their surroundings, 33,3 % of the disabled people have issues to move in the street due to physical obstacles around, which can be seen in very distinct levels of severity. Of those, 18,0 % declared having low difficulty, and 19,8 % declared having high or extreme difficulty.

The numbers are eloquent enough and show the necessity and relevance of developing a “country strategy” to the disability, because the impact of the social and cultural consequences that come from them can make a significant difference in the quality of life of millions of people in Chile. (Zondek et al., 2005)

## **5.2 Questionnaire CASEN 2011**

The article 5 of the Law number 20.422 defines the disabled person as the “one having one or more physical, mental disabilities, be by psychic or intellectual causes, or sensorial, of temporary or permanent character, when interacting with diverse obstacles present in their surroundings see themselves handicapped or restricted in their full and effective participation in society, in equality of conditions with the others.”

This definition takes in the conceptual mark from the International Classification of the Functioning, of the Disability and of Health (ICF) elaborated by the World Health Organization in 2001, in which is based the First National Study of the Disability in Chile in 2004, ENDISC, as it was mentioned beforehand. This mark considers the functioning and the disability of a person as a dynamic interaction between the states of health and the context factors, including in the latter the personal and environmental factors.

In this context, in the CASEN Questionnaire was not possible to build a disability indicator, due to the fact that the questions related to this matter approach the concept in a partial way, focusing on measuring long term health conditions, difficulties in the realization of an assembly of activities and the interaction between both, with some health states and the dimension related to restrictions in the participation ending up out of the analysis. So the numbers are related just to people who present at least one long term health difficulty, corresponding to: physical difficulty with/or mobility; muteness or difficulty of speaking; psychiatric difficulty; mental or intellectual difficulty; deafness or difficulty to hear while still using hearing aid devices; blindness or difficulty to see using glasses.

Having made this clarification, it is relevant to mention some numbers collected in the Questionnaire CASEN of the year 2011:

1. Almost 42, 5 % of the population with long term health difficulty belongs to the first three deciles of entry, number very close to the one revealed by the Study ENDISC 2004, signaled beforehand.
2. In the work scope, 78, 1 % of the population with long term health difficulties is inactive, which means that people of 15 years old or more do not integrate the economically active population, while the people with no difficulty has a number of 41, 4 %.
3. Regarding education, 19, 4 % with long term health difficulties do not have formal studies and 30, 6 % have incomplete basic studies, only 14, 1 % has completed the high school and just 7, 1 % has reached the higher level education.
4. 9, 1 % of the head of families in Chile have long term health difficulties.
5. Of the population with long term health difficulties, 33, 6 % present some type of difficulty to complete daily life tasks in an autonomous way, including self-care tasks. The number goes up to 57, 1 % in people from de 6 to 59 years. (Ministerio de Desarrollo Social, 2015)

## **6 Institutions responsible for politics dedicated to PwD at state level and its respective regulations**

### **6.1 National Disability Service**

In 1994, the National Fund of Disability (FONADIS) was established by Act No. 19.284 and was followed by SENADIS, established by Act No. 20.422 of 10 February, 2010.

The National Disability Service is a functionally and territorially decentralized public service whose purpose is to provide equal opportunities, social inclusion, participation and accessibility to persons with disabilities. It is related to the president of the republic through the Ministry of Social Development.

National Disability Service Functions:

1. Coordinate social activities and benefits, executed by different state organizations that contribute directly or indirectly to this purpose. To be able to execute this function, the National Service can make agreements with these organizations.
2. Provide technical consulting to the Committee of Ministers regarding execution of national politics dedicated to disabled people and periodic evaluation of all these activities and social benefits, realized by different state organizations whose direct or indirect purpose is to provide equal opportunities, social inclusion, participation and accessibility to persons with disabilities.
3. Elaborate and execute, if necessary, a plan of actions in the national politics for people with disabilities, as well as plans, programs and projects.
4. Promote and develop actions that support the coordination between the private and the public sectors in all the fields that are related to an improvement of the quality of life of persons with disabilities.

5. Finance, totally or partially, plans, programs and projects.
6. Realize activities focused on propagation and sensitivity improvement.
7. Finance, totally or partially, technical help and support services, required by a person with disabilities, to improve his personal autonomy, considering the criterions of prioritization such as the grade of disability and the socioeconomic level of the applicant.
8. Study and propose to the President of the republic, via the Minister of Planning, standards and legal reforms necessary to an effective realization of disabled people rights.
9. Realize studies on disability and all topics related to the fulfilment of its purposes or contract those that would be considered necessary to be able to periodically count on an instrument that would permit the identification and updated characterisation of population with disabilities at national and communal level in socioeconomic terms as well as with respect to the grade of disability.
10. Supervise the fulfilment of legal regulations related to the rights of persons with disabilities. This option includes the responsibility to inform about possible non-fulfilment to respective jurisdictional organizations or authorities and to execute actions and participate in those cases where the interests of persons with disabilities are affected, in accordance with the legislation.  
(SENADIS, n.d.)

## **6.2 Advisory Board for Disability**

The Advisory Board for Disability is a part of the new public institution for disability in Chile and its mission is to realize the participation and the social dialogue in the process of equal opportunities, social inclusion, participation and accessibility for persons with disabilities. The Board consists of:

- One member of the National Direction of the National Disability Service which presides over the board.

- Five representatives of national organizations of persons with disabilities.
- One representative of business sector.
- One representative of organizations of workers.
- Two representatives of non-profit private institutions, founded to attend persons with disabilities.

The following functions of the Advisory Board should be pointed out:

- Issue opinions based on the national politics proposals for persons with disabilities and its updating, as well as on the action plan, in accordance with the legislation and regulations.
- Request and receive records and information from the ministries, public services and entities in which the State participates that are necessary for the fulfilment of their functions.
- Recommend the criterions and proceedings of evaluation, selection and supervision of tender projects, financed by the National Disability Service.
- Present a proposal of allocation of tenders to the National Director of the National Disability Service, after previous technical evaluation of the presented proposals.
- Serve as a consulting and support body for the realization of the National Disability Services functions.
- To be informed periodically about the activity of the National Disability Service and about the fulfilment of its purposes.

## **7 Organizations responsible for disabled people recruitment policy at the state level and the related regulations**

The ministry of Work and Social Prevention, established by decree No. 25 of 1959, modified in August, 1979, realizes employment stimulation via financing Employment Programs, promoted and coordinated by the National Training and Employment Service (SENSE), that are realized directly or in cooperation with foundations, private non-profit corporations, municipalities and others.

Act No. 19.518 of 1997, modified by Acts No. 19.765 (2001), 19.967 (2004), 20.121 (2006), 20.123 (2008) and 20.267 (2008), establishes a training and employment system whose purpose is to promote an improvement of working competencies of the employers in order to contribute to a sufficient grade of employment, improve the productivity of the employers and the companies, as well as the quality of products and processes. It is established by this Act that if the employers who sign training contracts whose quantity is equal or higher than 10 percent of their permanent staff, at least 50 percent of these must be persons with disabilities or persons who belong to vulnerable groups that are defined as beneficiaries of public programs, managed by Ministries of Work and Social Prevention and of Planning and Cooperation, the National Service for Women, The National Service for Minors or other Ministries or Public Services. (Historia de la Ley N° 20.267, 2008)

### **7.1 Recruitment of PwD in companies that provide temporary services**

There are some modalities in recruitment that are especially defined for people with disabilities. These modalities include learning contracts and recruitment of persons with disabilities in companies that provide temporary services.

Temporary staffing companies are those companies whose object of activity is to provide staff to user companies to perform temporary works. Thanks to this modality, the temporary staffing companies can hire a worker, which is obliged to perform temporary or occasional works for a user company, and this company is obliged to pay a determined salary for the contracting period.

For these contracts, maximum validity periods are determined that depend on different factors, established in Article 183-O of Act No. 20.123 of 16 October, 2006 (hereinafter referred to as Act No. 20.123), but the periods never can be longer than 90 or 180 days, depending on the case, and only can be extendable in case when the reasons that motivated the contract formation still persist.

Nevertheless, in case of persons with disabilities, the maximum period of duration of a temporary services contract can be 6 renewable months.

## **8 Plans, programs and strategies to promote employment of PwD**

PLANDISC, i.e. Process of Elaboration of the Nation Action Plan for Social Inclusion of Persons with Disabilities 2012-2020. This initiative is a part of the Project for Monitoring, Evaluation and Strengthening of Decentralised Politics for Social Inclusion of Persons with Disabilities in Chile, which is being realized with support of the European Union. (SENADIS, 2011)

### **8.1 National Disability Service Programs related to Working Inclusion**

The National Disability Service promotes access to employment for persons with disabilities via creation of networks with public and private institutions that permit to generate space for dialogue, connection and management of working positions.

Additionally, annually organizes a public tender whose purpose is to contribute to the financing of initiatives that permit to support working inclusion of persons with disabilities.

The presented projects must include activities that take into consideration the development of social and working abilities, professional training, development of working competencies, realization of adjustments of working positions and associativity at work.

Moreover, promotes the access to independent work via tenders for projects to drive the development of business activities or companies that would allow the persons with disabilities and their families to show their business potential, supporting the promotion of business opportunities and creation of business companies.

### **8.1.1 Employment Intermediation Program**

The Employment Intermediation Program (PIL), created by the National Disability Service, has been realized since 2002 as an alternative to job searching by workers and workers with disabilities and its aim is to promote employment opportunities for these groups of people. Its purpose is to permit the access to the labour market for persons with disabilities, keeping the equal conditions, and to provide such job intermediation services which would bring the job demand of disabled people closer to private sector companies and public institutions job offers.

After the promulgation of Act No. 20.422, the main purpose of the program has changed and it started to be focused on the creation of job networks at national and regional levels. The PIL establishes a permanent link to the businessman, especially via Human Resources departments, and thus provides an opportunity to count on different services such as orientation, evaluation and description of available jobs and a possibility to hire an employer in accordance with the requirements for the respective job offered by a company. The PIL offers to disabled persons an evaluation of their potential, job orientation and job intermediation, seeking for a job that corresponds to their potential and interests.

The Employment Intermediation Program is being realized in all the regions of the state via National Disability Service Regional Offices. (Chilebeneficios, 2012)

### **8.1.2 RED INCLUYE**

RED INCLUYE, created by the National Disability Service, is an intersectoral red of organizations and institutions involved in social inclusion of persons with disabilities, which seeks for an optimization in the use of its recourses, developing coordinated actions in order to provide equal opportunities in performance of productive roles, from a point of view of persons with disabilities. Its purpose is to perform an organized, participatory and technical

work necessary for labour inclusion of persons with disabilities in the labour market. (SENADIS, 2013)

### **8.1.3 Labour Inclusion Grant Fund**

This Grant Fund, managed by the National Disability Service, permits to access to complete or partial financing of projects for development of activities related to social inclusion of persons with disabilities. Its purpose is to contribute to the development of labour inclusion strategies for persons with disabilities that would develop or strengthen working abilities and competencies and employability.

The Labour Inclusion Grant Fund considers the following fields of activities:

- Protected jobs
- Supported jobs
- Preparation for nomination for Sello Chile Inclusivo

The candidates that can participate in this grant can recruit from public or private institutions, as well as communal organizations regulated by Act No. 19.418.

The beneficiaries of the projects, financed by the Labour Inclusion Grant Fund, must be persons with disabilities registered in the National Register of Disabilities, more than 18 years old to the closing date of the tender. For the category of Supported Jobs, there must be at least four beneficiaries, and for the category of Protected Jobs, there must be at least 6 beneficiaries.

In 2013, the fund was subsidized with \$ 120,000.00 (\$ 8,000.00 per region). (SENADIS, 2011)

#### **8.1.4 Sello Chile Inclusivo**

Sello Chile Inclusivo is an award for Public and Private Organizations that demonstrate particular activities in the field of inclusion of persons with disabilities and it is awarded by the Government of Chile via SENADIS.

There are the following categories:

- Sello Chile Inclusivo for Universal Accessibility
- Sello Chile Inclusivo for Web Accessibility
- Sello Chile Inclusivo for Labour Inclusion
- Golden Sello Chile Inclusivo (category for labour inclusion + universal accessibility or web accessibility)

The candidates for the Sello Chile Inclusivo can be ministries, municipalities, public organizations in general and non-profit private institutions. (Discapacidad, 2014)

## **8.2 Training programs**

### **8.2.1 Job Training**

The aim of this program is to improve possibilities of labour incorporation for men and women between 18 and 65 years of age by means of an integral training model realized by entities specialized in job training. The training plans are meant for those people who have a score equal to 11.734 or lower according to the Social Protection Document, who do not have any technical or professional education and who are seeking for new labour opportunities, improvement of incomes or improvement of quality of life. The average duration of the training is four months. The program provides to the participants a subsidy of \$3.00 per day of assistance for transport and food during the training and practice, as well as a subsidy of \$200.00 for tools for the technical training courses, and except of this, an insurance against accidents that may occur during the training and practice.

### **8.2.2 Training Program at a Place of Work**

The aim of this program is to recruit unemployed persons or persons who are seeking for the first job through a bonus system for companies and to develop their competency in the field they are involved in, providing them training at a place of work via a subsidy for training.

There are three fields of activities in the program:

1. Young trainees. This line is meant for men and women between 15 and 24 years of age, who are allowed to be trained at the place of work in a company, which receives a bonus of 50 percent of the minimum salary for the minimum period of 12 months for each recruited trainee. Moreover, the program grants a bonus of \$400.00 for training related to the profession.
2. Unemployed. This line, meant for men and women between 25 and 65 years of age, grants a bonus for recruitment of long-term unemployed or unemployed who are seeking for the first job (40 percent of the minimum salary during the first 6 months of the contract and 20 percent during the following 6 months). The applicants must belong to the 60 percent of the most vulnerable population in accordance with the Social Protection Document.
3. Unemployed that lost their job due to bankruptcy or massive reduction of staff. This line grants a bonus for contracting the unemployed who lost the job due to a judicially declared bankruptcy of the company where they were employed, or due to massive reductions of staff, in accordance with the Labour Code. (SENADIS, 2011)

### **8.2.3 Occupational training for persons with disabilities**

Occupational training includes all the activities intended for workers and employees in order to guarantee a suitable performance of a job and to improve the employability.

The main occupational training program is the Program of Occupational Training created by SENCE. SENADIS y SENCE cooperate in order to promote the participation of persons with disabilities in this training program.

### **8.3 Social Security Benefits**

#### **8.3.1 Tax Exemption Program Grant**

Based on tax exemption programs, the companies are allowed to impute 1 percent of their taxes for training of their employees, and if these recourses are not used, the SENCE recovers them and allocates them for training of vulnerable social groups.

Tax Exemption Program Grant is a subsidy for training of unemployed persons or those persons who are seeking for their first job, or persons of certain vulnerable groups that include persons with disabilities. These grants are focused on training for professions and are based on working abilities. The training is completely free of charge for the beneficiaries, who receive a subsidy for transport and food, as well as for tools, if necessary. Moreover, the participants receive an insurance against personal accidents, including labour practice, if necessary. (Sence.cl, 2014)

#### **8.3.2 Individual Capitalisation Security Program Benefits**

The Individual Capitalisation Security Program includes the salaried who started to participate in the workforce after December 31, 1982. The obligatory coverage is being extended gradually to the independent workers from 2012 and 2015.

#### **8.3.3 Disability Pension**

It is conceded to persons who has lost at least two thirds of their working capacity (total disability) or such a part of working capacity that is equal or higher

than 50 percent, but lower than two thirds (partial disability). The disabled person receive the money saved up on his individual account and will have a possibility to select from different options, starting from programmed withdrawals from his funds up to receiving life annuity. The pension amount depends on the grade of disability and if the worker has a Disability and Survival Insurance. If it is so, the base for the calculation is the average income of the last 10 years. If not, it is calculated on the basis of life expectations of his family. (Instituto Social, 2014)

#### **8.3.4 Minimum guaranteed disability pension**

This pension has been substituted by supportive disability benefit. Nevertheless, the persons who received it before 1 July, 2008 and have not chosen the security supportive disability benefit still keep receiving it. It is payable if the disability pension of the insured is lower than the minimum pension. Its amount depends on the age of the pensioner. (Instituto Social, 2014)

#### **8.3.5 Contribution for disability supportive social security**

This benefit is conceded to the insured between 18 and 84 years of age who have resided at least 5 years in Chile during the last 6 years and who have been classified as disabled, if they receive a basic pension (individual account disability pension plus any received surviving benefit) which is lower than the basic supportive disability pension and if the pensioner's family belongs to the 60 percent of poorest population. (Previsionsocial.gob.cl, 2013)

#### **8.3.6 Supportive Pillar**

Act No. 20.255 (D.O.17/03/2008) that established the Security Reform, incorporated some essential modalities to the security system such as Basic Supportive Disability Pension and Supportive Disability Security Contribution that benefit the persons with disabilities with limited resources due to a situation of major vulnerability.

The implementation of the reform became brought an important improvement for the disabled persons. The former pensions have been substituted by higher ones with a guarantee of progressive increase.

### **8.3.7 Basic Supportive Disability Pension**

To obtain this pension, the person must be declared disabled by the Medical Invalidity Commissions that depend on the Committee of Pensions that correspond to the region of residency, except if those who contribute to the security system of the Institute of Social Security who keep being classified by the Commissions for Preventive Medicine and Disability (COMPIN), must be 18 to 65 years old, belong to the 60 percent of the most vulnerable families, must have lived in Chile at least 5 years during the 6 years before the submission of the application for this pension and must not be entitled to receive any other security benefit. The amount of the pension is \$75.00<sup>4</sup> per month.

There are the same rules to be able to apply for the Disability Supportive Security Contribution, but the applicant has to have contributed to some security system and the amount that would receive is lower than the Basic Supportive Disability Pension. The amount of the pensions is the difference between the pension that he receives and the above mentioned \$75.00.

The beneficiaries of this pension receive this benefit till the last day of the month when they reach 65 years of age. From this date on they can receive, if they qualify for it, the Basic Supportive Old-Age Pension, for which they have to apply and have to meet with the requirements, established for this kind of pension. The persons who receive the Supportive Security Disability Benefit are allowed to apply for the Basic Supportive Old-Age Pension when they reach 65 years of age.

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<sup>4</sup> Chilean pesos

After modification of Act No. 20.255 on Social Security from 17 March, 2008, modified on 31 August, 2011, the beneficiaries of the pensions do not have renounce the pensions in case they start to work. It means, the persons who receive Basic Supportive Disability Pension or Supportive Security Disability Benefit can work and maintain their right to receive the pension under the following conditions:

1. They will be able to maintain 100 of the benefit of one of the disability pension during first two years, regardless the income that they receive.
2. If the income is lower than the minimum monthly salary, they never lose the entitlement to the pension.
3. If the income is higher than two minimum monthly salaries, after two first years of work the pension is reduced to 50 and starting from the fourth year the entitlement expires. Nevertheless, if the disabled person terminates the job, can apply for the pension anytime again.
4. If the income oscillates between one or two minimum monthly salaries, starting from the third year the benefits are reduced proportionally, depending on the income, first the pensions is reduced to 50 and starting from the fourth year the entitlement expires. If the disabled person terminates the job, can apply for the pension anytime again. (Instituto Social, 2014)

#### **8.4 Supports for self-employment and creation of companies by PwD**

By means of the National Tender for Small Business Projects, SENADIS, the National Disability Service, supports programs and strategies to promote employment of persons with disabilities, self-employment and creation of enterprises by persons with disabilities.

The persons with disabilities also can apply for the “Yo emprendo” program (I do business), created by the Supportive and Social Investment Fund (FOSIS), if they meet with the general requirements for application (their score

according to Social Protection Document must be lower or equal to 8.5 points or they must participate in the Programa Puente [Bridge Program] or Chile Solidario System [Supportive Chile].

#### **8.4.1 Supported employment**

By means of the National Project Fund for social inclusion, SENADIS finances the pilot projects in order to generate a model of Supported Employment that would contribute to labour inclusion, creating jobs for people with mental disabilities and putting together the companies and the social organizations. (Fundacionemplea.org, 2015)

#### **8.4.2 Protected employment**

In Chile there are workshops that offer occupational training to persons with mental disabilities and promote their incorporation into society. Moreover, their objective is to help, guide, support and train their families and close people.

Many of these workshops are linked to the special schools that offer training services for students with special educational needs due to mental, visual, auditory, motor disabilities with severe impact on their capability for relationship and communication and difficulties in oral communication. The Chilean regulations expects that the persons with disabilities major than 26 years who have completed the pre-basic and basic levels of the general education system can continue, participating in courses or workshops at guidance and training levels in the system of general basic education.

Act No. 18.600 (1987) that establishes the regulations on persons with mental disabilities, considers a favourable tax treatment for the non-profit legal persons who would maintain the operation of protected workshops where the persons with mental disabilities, especially those who provide from families with low incomes, could develop working activities for therapeutic purposes. The Act also

establishes that the municipalities can create, finance or contribute to financing of special educational establishments, training workshops and protected households for persons with mental disabilities. Act No. 18.600 also establishes that the employment contract, signed by a person with mental disability, can determine a salary that is freely agreed between the two parties and is not subject to the regulations regarding the minimum income. The SENADIS finances projects for creation and maintenance of protected workshops by means of National Project Fund for Social Inclusion. (SENADIS, 2013)

### **8.4.3 Cross-wise Variables**

The program “Line for Access to Work: Independent Employment from Gender Perspective”, created by SENADIS, is focused on disabled women and/or housewives that take care of a person with disabilities. In addition, those applicants who can prove lower standard of living are prioritized and are assigned an additional scoring according to the Economic Characterisation Survey (CASEN), as well as applicants who participate in the Chile Solidario Program and women who are physically and economically depending and women who originate from some native village.

## **8.5 Other Measures**

### **8.5.1 Creation of Labour Inclusion in the State (LILE)**

It is a strategic project of the SENADIS and the Ministry of Social Development of the State that will permit to discover the quantity of persons with disabilities who work in the state and to perceive it with respect to the social inclusion conditions and accessibility of the environment in which they live. The objectives of the project are the following:

1. Take into account statistical data to be able to guide and drive public politics in favour of labour inclusion of disabled persons.

2. Establish and strengthen the disability as a significant variable in human resources politics of the public sector.
3. Visualize opportunities for improvements regarding implementation of Act No. 20.422.

### **8.5.2 Rehabilitation Medical Care**

One of the adopted measures to support the workers who due to some accident at work have suffered a disability that impedes them to perform their previous job, is the Work Accidents Insurance which covers the medical care needed till the complete rehabilitation of the patient is finished, including professional retraining. (Paritarios.cl, 2014)

### **8.5.3 Laborum Inclusivo Portal**

Laborum Inclusivo ([www.laboruminclusivo.cl/](http://www.laboruminclusivo.cl/)) is a website that offers job intermediation in order to integrate persons with disabilities in the labour market and acts like an intermediation and connection medium between different foundations involved in the subject and companies that would like to contract employees who present some type of physical, cognitive, visual or auditory disability to support their integration into the labour market.

## **9 System of custody of PwD in Denmark**

Providing working positions in Denmark for the people with disabilities is being regarded in the wider context of occasions for all the socially disregarded groups. The politics of integration of the people with disabilities on the labor market is based on the basis that the special measures are used only in case when the integration cannot be done without the support. (English.sm.dk, 2015)

In Denmark, there is no system of quotas for people with disabilities. The only legislative measure which makes it more advantageous for the people with disabilities is the preferential attitude for employment in the public services. Rather than the special legislative for the people with disabilities, there are more preferred the campaigns focused on the change of attitudes and no voluntary measures for providing work to the disabled people. Even the organizations of the disabled people are of the same opinion, that the system of quotas harmed the principle of equity. Making such system would strictly demand systematic registration of all of the disabled people, which is regarded as unacceptable. The negative reactions of organizations of disabled people on the system of quotas do not mean that these organizations believe that the disabled people are integrated properly into the labor market. The important point is also the fact that in Denmark there does not exist a clear definition on who should be regarded as a person with disability. In the wider meaning of the word it is the person with lowered or disabled functional ability if the person loses or has limited opportunity. This means that this group is quite broad and needs various measures from relatively easy technical types of support to the more integrated solutions, which include individual support enabling certain people to work. The compensation support is in fact with no charge. (Kořánová, 2013)

The key aspect in politics of the health disability is the sector responsibility. Theoretically it is the attitude, since it implicitly means that the help and support happens as close to the individual as possible. It also reflects the

decentralized attitude, which however also means certain risk that there where the borders of sectors overlap, there is no clearly defined responsibility for help and accepting the decisions. As long as the labor market, the main support is realized through local job centers. These centers have local responsibility for the support and entrance to the labor market. There has been created a special job center in Vejle, which task is to watch and analyze the situation of disabled people, to maintain the long-lasting support and to inform other local job centers about this information. Other task of the Vejle Jjob center is also to help in cases where the help of the health disabled people is complicated, has to be more specialized and asks for a high level of knowledge. This is important not only for the disabled people but also for the workers. Another task of the Vejle Job Center is to develop knowledge on what works the best at integration of the disabled people in the labor market. (Larsen and Gupta, 2010)

In Denmark, for quite a long time the corporate and social responsibility is of a great importance. It shows that it is important for those workers, whose working condition is lowering after having been involved into the labor market. The employers however have no legal duties except discrimination. Recent analysis of relationship between municipalities and employers have shown, that most of the businesses are mostly focused on keeping the people with disability in the working place rather than focusing on employing new ones. (English.sm.dk, 2014)

The analysis of social responsibility of the businesses from 2008 has proven that the need of work is the main assumption for employment of people with health disability. Nearly half of the firms was affected by the benefits for wages when employing the disabled people. In the recent years, there was a decrease of businesses that were informed about the possibility of getting the benefits for wages. Potential barrier could also be the fact, that various employers were of the assumption that the health disabled people can only work as an unqualified staff. Therefore it is important that the mentioned job centers are more active and increase the information flow. Denmark is one of the countries which

have dramatically overthought their politics and practices to increase employment of people with limited working disability. Denmark has reformed its system of benefits, accepted certain measures and reduced the demand criteria (the social benefits on unemployment were lowered from 9 to 4 years). (Wise, 2012)

The Danish statistics does not include any information about the health disability, only the statistics about the people who are on the disability pensions and sick leaves. The unemployment rate of people with health disability or a partial working condition in Denmark is relatively low, slightly above 50. However, lately the situation of disabled people in Denmark has been worsening. (OECD, 2010)

Around 7 of the Danish population in the active age gets regularly the disability pension. The number of recipients, even over the reforms, has stayed relatively unchanged, regardless of the increasing number of recipients of benefits connected to their health condition. These increasing numbers of recipients were for example of the Flexjobs, which were designed to keep people with partial working disability out of the long-lasting invalid benefits-receiving situation. One of the basic principles concerning the employment of the people with disability is the fact, that the initiatives, which are focused on increasing the employment, are always being given a greater importance than the passive help. If an individual has the ability to work and is able to use this ability at the labor market, then it is necessary to create an effort towards this direction. The emphasis is put towards what a person is able to do or what the person could do with some help or support, rather than on what the person cannot do. This concept of individual working ability is often widely used while elaborating each individual case and therefore offers a complex assessment of all the resources, so that the individual is offered the maximum possible help while his or her comeback at the labor market. The medical assessments is also included into the overall decision, as part of the complex assessment of all the resources for an individual. Due to this fact, each individual is a subject to a throughout process, where there is a probation period and tests which determine the possibilities of integrating the individual into the

labor market. The outcome should always be the ability to shorten the way back to work. (Larsen and Gupta, 2010)

The entire target group has in some degree a lowered working condition, either due to an illness or a health disability. Some people can overcome these disabilities due to certain help and support: adjustment of the working place, which takes into account the special needs, provision of help while commuting to work, providing the personal assistance, which can help the individual to cope with the problems at the working place.

For other disabled people, their limitation can cause that they are not able to work in their original field; however with adequate help and requalification they can get employed in completely different field of employment. In this context we can offer so called rehabilitation program, within which program and individual obtains qualification for work in new field during few years. Finally, there is a group of people whose diseases or disabilities limit them significantly, but who are able to work in certain conditions e.g. part time; the flex jobs are convenient option for this group. In practice this requires that each case is judged individually. Firstly, we always have to evaluate how much work would be individual be able to accomplish and what support is needed. Default point is now that if the residual working capacity is higher than half, the employment should be covered by a normal employment contract. If the remaining working capacity is lower than third, the individual is a eligible for disability pension (pre-retirement). Flexjob program should cover the cases when the reduced ability to work is oscillating somewhere between the half and the third. (Larsen and Gupta, 2010)

The Flexjob program is most important way of employment with public support in specific conditions. It seems that Flexjob program has celebrated certain success in terms of entering the regular labor market but the success rate decrease overtime. Also labor rehabilitation has a positive impact on persons with disabilities on the labor market, or it can be a mean to determine whether the

participation of persons with disabilities in the labor market is possible at all. It is reported that about one of three people is employed twelve months after rehabilitation measures.

Flexjobs, mentors, personal assistance combined with necessary auxiliary vehicles are therefore the most important tools that can help disabled people to enter and / or remain in the labor market. Flexjobs are for some PwD also the gateway into the regular labor market and they allow them to make best use of available resources. (Larsen and Gupta, 2010)

Information and dissemination of the information on the implementation of the policies are extremely important to ensure a positive outcome. Finally, education and lifelong education of persons with disabilities are very important elements for the possibility of obtaining and maintaining employment.

A self-employment may be the alternative path to integration into the labor market for people with disabilities, because of discrimination and restrictions on the availability which PWD experience with employers.

Denmark does interventions that could be characterized as a starter incentives specifically targeted at people with disabilities. The rate of self-employed business in Denmark is one of the lowest in Europe for both the unaffected people (5.7 %), as well as for people with disabilities (2.3 %).

## **9.1 Financing**

Municipalities manage social benefits, sickness benefits and vocational rehabilitation programs and programs to promote employment. The structure of funding shows that municipalities are financially motivated to strive to engage or maintain people in employment or vocational rehabilitation. The state reimburses municipalities expenditure on activation measures and rehabilitation doses of 50%, while passive doses pays only 35%. Rehabilitation benefit may take a maximum of 5 years. Sickness benefits are 50% reimbursed for one year; then the

village does not receive any compensation. Absolutely the best outcome for the village is to get a person employed. Flex job program provides reimbursement to municipalities from state to 65 % of spending on wages. (Kořánová, 2013)

## **10 Recommendations to improve the social status of PwD**

### **1. Do not perceive disability as a loss of ability to work**

Ability to work should be evaluated on the basis of regular medical examinations, and on the contrary, finding a job should not mean an automatic loss of the social status of a person with a disability. Some countries, e.g. Denmark, have implemented a system where disabled persons maintain their status while trying to find a job and at the same time they still have a chance to return to the social security system if they lose the job or do not find it.

### **2. Help persons with disabilities to find a job**

To make the social system help really effective, the state must invest in education of social workers. These workers must have an excellent knowledge of the complete social system, especially of financial and non-financial help, offered by the system, to be able to create the most suitable social program with respect to the needs and abilities of people with disabilities. Such a social system should also correspond to the labor market policy to prevent migration of people from one system to the other according to its favorableness and social security benefits.

### **3. Flexibility**

Consider the concept of flexible work as a tool that brings employment opportunities for people with disabilities for example through part time jobs.

### **4. Experience with job performance**

Spread information about the growing experience of the companies which recruit employees with disabilities and point out their qualities and productivity.

## 5. Use all opportunities

Use all the opportunities for training, finding contacts and other opportunities offered by government programs and private institutions. Associations for people with disabilities are co-responsible for creating procedures and measures focused on social and physical environment that facilitates full inclusion of these people and thus improves their quality of life.

## 6. Promote regulations that support recruitment

Since the major part of job opportunities for persons with disabilities arises in the private sector, it is necessary to establish legal regulations such as tax exemptions or tax subsidies to encourage recruitment of people with disabilities.6)

## Integration and Inclusion

## 7. Integration and inclusion in educational system

In recent years, we have been encountering increasingly the concept of integration in everyday life. Not only in the context of special education or people with disabilities or disadvantaged people, but this term pervades practically all disciplines. It is not just the equalization of opportunities, but the success of integration of people with disabilities into society depends also on the attitude of each of us. It depends on how we are able to accept this process and identify with him. This concept started to emerge in the Czech Republic after 1990.

In the field of education, the process of integration consists in joint training of intact society, i.e. unaffected students, and students with disabilities. This joint training takes place in mainstream schools. School age is naturally limited by school attendance and it is the performance of the child at school that is determinative. It includes his relationship with classmates, peers, his performance, teacher praise or any positive response by teachers or parents. All this serves to the harmonious development of the child. In case of absence of these relationships

and manifestations, strong feelings of inferiority may occur, that will influence the entire course of life of individuals with disabilities (Jankovský, 2006).

In the Czech Republic school integration has been discussed since more than 20 years. Sociopolitical changes after November 1989 brought, among other things, a change of opinions on the lives of people with disabilities and their education. Most often we can hear this term in the context of natural integration of disabled people into society, in the sense that they could become an integral part of it (Jankovský, 2006).

It is a process that is constantly being changed, extended or modified on the basis of new knowledge, it is related to the equalization of opportunities and represents the relationship between the majority (healthy population) and minorities (people with disabilities). Integration is thus a state (of the phenomenon), but above all it is a process. Not only in terms of integration into society, but also how each one of us is able to naturally accept this desirable process and identify with it. "This process is closely related to the development and maturation of our own personality, i.e. our integrity." (Jankovský, 2006, p. 87).

This leads to the development in the field of legislation, economy and procedural framework. The prerequisite for the integration is so called inclusion. Inclusion means creating such an environment in the classroom, where the difference is welcome and appreciated. Inclusion should be a part of our value system and should become a personal belief of each person. It is possible, however, to use both terms (integration and inclusion) interchangeably, and in practice it often happens.

## 11 Conclusion

Chile, in order to protect and assist people with disabilities accepts relevant legislation and also establishes numerous institutions and organizations, which entrust competence in the social sphere. The social security system is extensive and interdependent.

This thesis on topic "The system of custody of people with disability in Chile and Possibilities of its improvement" was paid to the analysis of legal regulation of benefits for people with disabilities, laws that in some of its articles include PwD in the years 1990 - 2014 and the state institutions. The greatest emphasis was placed on Act No. 20.422 Which "Establishes Norms about the Equality of Opportunities and Social Inclusion of Disabled People".

This law changes the axis of the state action regarding disability, focusing on actuating in guaranteeing the practice of the rights of PwD. Most of the programs, plans and strategies that fall under this Act. No. 20.224 are concentrating on labor and social inclusion but it differs a little bit from integration which is on the other hand dependent on the inclusion. Because inclusion is to make an appropriate environment where people can integrate. Due to the analysis of laws, regulations and various conventions the thesis has elaborated a conclusion, that there is not put enough emphasis on school integration of PwD which may lead to a bigger problem and that is why it was mentioned in the possibilities of improvement because if the children are not integrated into the society in young age through school how do you perceive them and motivate them to do it when they get to the age when they are supposed to be less dependent and also more productive.

For a further development of any country in social, political or economic way it is important to consider all members of the society because their being will always have some kind of an impact on either other person, society or even economy. Neglecting and putting aside have never changed anything. Throughout

the analysis it is clear that Chile does care about the situation and is moving forward towards the improvement. Disabled people there, are not a stigma like in other South Americas countries and society seems to be open to them. Government's programs, plans and organizations have good intentions but must ensure that this development and improvement is touching every region of the country. Chile, just like other countries can enhance things and it is good to have a look on other country's legislation but it always has to be adjusted to the society itself.

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3. Law No. 20.422 *Establishes Norms about the Equality of Opportunities and Social Inclusion of Disabled People* [establece normas sobre igualdad de oportunidades e inclusion social de personas con]
4. Law No. 20.530 *on creation of Disability National Service* [crea el ministerio de desarrollo social z modifica cuerpos legales que]
5. Law No. 20.123 *Regulates subcontracted work, operation of companies providing temporary services and temporarytemporary services employment contracts* [regula trabajo en regimen de subcontratacion, el funcionamiento de las empresas de servicios transitorios z el contrato de trabajo de servicios transitorios]
6. Law No. 20.255 *on Pension reform* [reforma previsional]

### **13 List of abbreviations**

CASEN: National questionnaire of Social Characterization

ENDISC: First National Study of Disability

EU: European Union

FONADIS: National Fund of Disability

ILO: International Labor Organization

MZČR: Ministry of Health of the Czech Republic

OAS: Organization of American States

PwD: Persons with Disability

SENADIS: Disability National Service

UN: United Nations

UZIS: Institute of Health Information and Statistics of Czech Republic

WHO: World Health Organization

\$: Chilean peso