

May 2019

DEADLINES APPROACHING UNDER THE NEW PERSONS WITH DISABILITIES ACT

THE NEW PERSONS WITH DISABILITIES ACT (PDA) AIMS TO ENHANCE CONDITIONS FOR SOCIAL AND LABOUR INTEGRATION OF PEOPLE WITH DISABILITIES IN BULGARIA AND PROVIDES STRICTER OBLIGATIONS FOR EMPLOYERS COMPARED TO THE FORMERLY APPLICABLE FRAMEWORK. FROM APRIL 2019, RULES FOR IMPLEMENTATION OF THE PDA WERE ADOPTED TO PROVIDE FURTHER GUIDANCE TO EMPLOYERS ON THE NEW OBLIGATIONS. FIRST DEADLINE FOR EMPLOYERS UNDER THE NEW PDA AND THE RULES, IS 2 JULY 2019.

QUOTA FOR PERMANENTLY DISABLED PEOPLE AND NOTIFICATION DEADLINE

The PDA defines "permanently disabled person" as a *"person with permanent physical, mental, intellectual and sensory impairment who may impede their full and effective participation in public life and to whom the medical expertise has established a degree of disability of 50 and over 50 percent."*

Under the PDA, employers with over 50 employees, shall appoint permanently disabled persons, as follows:

- employers with 50 to 99 employees – have to dedicate a job position for and employ 1 person with permanent disability;
- employers with 100 and more employees – have to dedicate job positions for and hire employees with permanent disability at the minimum of 2% of the (average annual) headcount of employees in the company.

Employers have the obligation to calculate the abovementioned quota for people with permanent disability on annual basis and notify the Employment Agency (by 31 March) on the dedicated positions and the number of open/unoccupied positions for disabled employees. For 2019, as first year of adoption of the new requirements, the deadline for submitting the notification is – 2 July 2019.

OBLIGATION TO EFFECTIVELY HIRE PERMANENTLY DISABLED PERSONS

After the notification to the Employment Agency, employers are obliged within 3 months to hire permanently disabled persons.

There are several options for employers to recruit disabled employees:

- a) directly, announcing in a separate recruitment campaign dedicated only to permanently disabled employees;
- b) via the services of a special intermediary recruiter/recruitment agency (a list of the intermediaries can be found on https://www.az.government.bg/intermediaries/intermediary_activity/bulgaria/)
- c) via the Employment Agency.

Within the 3-month period employers should:

- a) if decided to recruit disabled employees by themselves – place offers, conduct interviews with the candidates for the allocated job positions and hire persons which satisfy the requirements; or
- b) if decided to use the services of an intermediary or the Employment Agency – to interview all suitable candidates suggested by the intermediary/ EPA and notify the intermediary/EPA of the outcome of the interviews (was the candidate approved or disapproved and if so the reasons for that etc.) within 7 business days from receiving the contact details for the proposed candidates.

FINES FOR NON-COMPLIANCE

In the event that the employer, after the expiration of the 3-month period for hiring disabled employees, have not filled the designated positions as per the quota, a fine can be imposed by the Labor Inspectorate at the amount of 30% of the minimum monthly working salary (currently minimum salary is **BGN 560** [approx. **EUR 280**] which translates into a fine of about EUR 85) per month for each position for permanently disabled person which remained unoccupied. If the employer does not duly pay the mentioned fine, it could be sanctioned with an administrative sanction of **BGN 2000 to BGN 5000** (approx. **EUR 1000 to EUR 2500**). In case the employer continues with the non-payment, a second administrative sanction (for second/continuance violation) may be imposed in the amount of - **BGN 4000 to BGN 10 000** (approx. **EUR 2000 to EUR 5000**).

EXEMPTIONS FROM THE FINE

There are exemptions from the above fine. The employer will not be considered in breach of its obligations in case:

- it certifies that there are specifics in the work environment which do not allow the appointment of employees with permanent disabilities (hard working environment not generally suitable for such employees); or
- in case the employer has used the recruitment services of a special recruiter or the EPA - during the three (3) month period, there were no suitable (as per the description of the job position disclosed by the employer with the notification)

candidates with disabilities. The lack of appropriate candidates should be certified by the Employment Agency or by the special intermediary. This exemption is not available if the employer has attempted to recruit disabled persons by directly (see p. 2 a) above.

In addition, the employers may undertake alternative measures to use persons with permanent disabilities apart from direct employment:

- purchase of goods or services from enterprises or cooperatives comprised of people with disabilities (yet to be developed);
- purchase of goods or services directly from persons with disabilities, who perform independent economic activity (e.g. as freelancers, a platform with details for such freelancers is yet to be developed);
- purchase of goods or services from specialized social enterprises, which have to meet certain legal requirements (yet to be developed).

In case an employer chooses one of the abovementioned alternative measures, the purchases should be made on a monthly basis. The amount of the purchases should not be less than double the minimum monthly working salary (which translates to BGN **1120** [approx. **EUR 560**]), for each unoccupied job position as per the quota under p. 1. The proof for compliance with the alternative measures mentioned above can only be an original document (invoice, payment order etc.).

About WOLF THEISS

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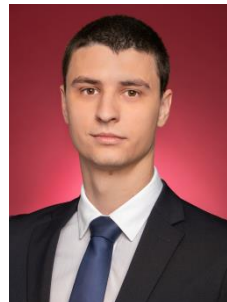
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