



Striving for an inclusive labour market in Portugal

Positive actions and reasonable accommodation to facilitate hiring and employment of persons with disabilities involving employers and employer initiatives

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Positive actions and reasonable accommodation to facilitate hiring and employment of persons with disabilities involving employers and employer initiatives

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1 Executive summary

1.1 Support and incentives directed at employers to promote the employment of persons with disabilities, including guides on good practice, websites and advice services

Since 2001, an employment quota has been set for persons with disabilities with an incapacity level equal to or greater than 60 % in central and local government services and bodies, and in public institutions. In 2019, Law 4/2019¹ introduced employment quotas – with a transitional period of four or five years – for persons with disabilities in the private sector and public bodies not covered by Decree-Law 29/2001.

In order to promote the employment of persons with disabilities, the Government has implemented mainly wage subsidy measures, such as *Estágios ATIVAR.PT* (ACTIVATE.PT internships), *Incentivo ATIVAR.PT* and, more recently, the Sustainable Employment Commitment Measure (*Compromisso Emprego Sustentável*) and CONVERTE+ as measures that seek to turn fixed-term contracts into open-ended contracts. There are no measures related to tax relief and just one regarding social security exemptions.

The website of the National Institute for Employment and Vocational Training (IEFP) has a specific page displaying information about measures to promote the employment of persons with disabilities.

OED (Employment Operation for People with Disabilities – *Operação de Emprego para pessoas com deficiência*), a service which operates exclusively in Lisbon, allows companies to post their vacancies and information about OED services. Two guides that have been made available focus on the recruitment of persons with disabilities: ‘A guide for inclusive recruitment’, drawn up by the Portuguese Association for Diversity and Inclusion (APPDI) and ‘How to recruit and integrate persons with disabilities: A toolkit for companies’, produced by GRACE in collaboration with Santa Casa da Misericórdia of Lisbon.

In its latest report for 2021, the Observatory of Disability and Human Rights (ODDH) noted that the quota schemes for both the public and the private sectors have not yet produced a significant impact on the employment of persons with disabilities: in the public sector, employees with disabilities made up only 2.62 % of the total number of public servants in 2020, and in the private sector they comprised just 0.58 % of the total number of employees in companies with 10 or more workers in 2019, the only group for which there is data available.

1.2 Support and partnerships available to employers to assist them in making reasonable accommodations

The National Institute for Employment and Vocational Training provides financial and technical support to assist employers in making reasonable accommodations. Some of these supports are channelled through resource centres, as they are called, which are disability service-providers accredited through the IEFP.

¹ Law 4/2019, <https://files.dre.pt/1s/2019/01/00700/0008900090.pdf>.

Created in 1991, the Employment Operation for Persons with Disabilities, or OED (*Operação de Emprego para pessoas com deficiência*), is a partnership between a non-profit organisation, the municipality of Lisbon and the IEFP. Operating in the city of Lisbon, OED assists employers in making reasonable accommodations and workplace adaptations.

Valor T works along the same lines to promote the employability of persons with disabilities nationwide. It was created by Santa Casa da Misericórdia of Lisbon, in partnership with the National Institute for Employment and Vocational Training and the National Institute for Rehabilitation. Non-governmental organisations of persons with disabilities (NGDOs), municipalities, universities and companies are also supporting partners in the project.

There is no evidence available of the effectiveness or strengths and weakness of the support available to employers and partnerships with employers to assist them to make reasonable accommodations.

1.3 Illustrative examples of good employer practice for providing reasonable accommodations for persons with disabilities

'Integration of persons with disabilities into the labour market: a guide for inclusion',² published by GRACE in collaboration with the Metropolitan Area of Porto, describes strategies that can help employers to contract and integrate persons with disabilities.

The Portuguese Association for Diversity and Inclusion,³ APPDI, has a library of resources that help employers develop inclusive practices. Although the Association is not exclusively working on the employability of persons with disabilities, it promotes inclusive practices for the recruitment of persons with disabilities, and supports employers to meet the mandates of the Portuguese Diversity Letter.

There is no evidence on how the various guides are being used by employers or about any effect they are having.

1.4 Recommendations

These recommendations relate to all stages of the employment relationship:

- the elaboration of practical guides on reasonable accommodation;
- awareness raising and training for employers and employers' organisations;
- the organisation of support networks within and among companies for sharing information, concerns and practices.

² 'Integration of persons with disabilities into the labour market', https://www.cm-gaia.pt/fotos/editor2/acao_social/2020/guia/guia_para_a_inclusao.pdf.

³ APPDI, <https://www.appdi.pt/plataforma-de-conhecimento/>.

In addition, specifically:

Promotion and Career Development

We recommend a special dedicated mention in any existing (or new) employers award competition to distinguish companies that implement good practices in reasonable accommodation in career development and promotion.

Additionally, we suggest the following measures:

1. In the training provided for all employees, consider the specific needs of persons with disabilities, so that they are not excluded from opportunities necessary for career development.
2. Make available financial support to employers to cover reasonable accommodations and accessibility needs in training for promotion and career development.
3. Make available financial support to employers to cover reasonable accommodations and accessibility needs in the adaptation of new positions.

Retention

We recommend that companies recognise inclusive teams and colleagues who actively participate in integrating persons with disabilities.

We recommend setting up a network among companies to enable employers to share information and concerns about how to implement reasonable accommodations and promote inclusive working environments.

2 Support and incentives directed at employers to promote the employment of persons with disabilities, including guides on good practice, websites and advice services

2.1 Employment quotas

Employment quotas for the public administration sector have been regulated since 2001 through Decree-Law 29/2001.⁴ This legislation targets persons with disabilities with an incapacity level equal to or greater than 60 % in central and local government services and bodies, as well as in public institutions that provide personalised state services or public funds. The application of the law presumes that persons with disabilities can perform the activity described in the position they are applying for without functional limitations. In the case of existing functional limitations, an adaptation of the workstation or/and technical help should be sufficient to overcome those limitations.

According to this Decree-Law, in all external competitions for entry into the civil service where the number of places put up for competition is equal to or greater than 10, a quota of 5 % of the total number of places, rounded to the nearest unit, must be filled by persons with disabilities. When the number of positions to be filled is between 3 and 10, one position is reserved for candidates with disabilities. In competitions where the number of positions to be filled is one or two, the candidate with disabilities has preference when placed in an equal ranking with a candidate without disabilities. This provision does not apply in careers with functions of a police nature, in the security forces and services, or in the Prison Guard Corps.

In addition, the Decree-Law requires that the number of positions to be filled by persons with disabilities is announced in the terms of reference of the application process. Applicants with disabilities must state their incapacity level in their applications, although they can present their incapacity certificate later on.

In 2004, Law 38/2004,⁵ in Article 28, allowed the introduction of quotas in the private sector, too. Law 4/2019⁶ was passed only in 2019, introducing employment quotas for persons with disabilities in the private sector and in those public bodies that were not covered by Decree-Law 19/2001. According to Article 2 of Law 4/2019, persons with disabilities who are covered by this Law have the same characteristics as in Decree-Law 19/2001. However, Article 2, Numeral 2, clarifies that the provision includes persons with cerebral palsy and organic, motor, visual, hearing and intellectual disabilities.

At least 1 % of workers hired by medium-sized companies (with 75 employees or more) must be workers with disabilities, while large companies (250+ employees) must hire at least 2 %. For companies with 75 to 100 employees, the law sets out a transition period of five years, from 2019, for the full implementation of the quota, and a transition period of four years for companies with more than 100 workers.

⁴ Decree-Law 29/2001 of 3 February, <https://files.dre.pt/1s/2001/02/029a00/05870589.pdf>.

⁵ Law 38/2004 of 18 August, <https://files.dre.pt/1s/2004/08/194a00/52325236.pdf>.

⁶ Law 4/2019 of 10 January, <https://files.dre.pt/1s/2019/01/00700/0008900090.pdf>.

With a view to phased compliance with the quota law, employers shall ensure that, in each calendar year, at least 1 % of annual hiring is intended for persons with disabilities. This obligation took effect in the first calendar year following the date when the law entered into force. Companies must report annually the number of employees with disabilities that are part of their payroll through the *Relatório Único* (Single Report) to the Directorate General of Health and the Authority for Labour Conditions. The hiring process should be suitable for persons with disabilities, and adapted assessment tests should be provided when a person requires them, in accordance with Law 4/2019⁷ (Article 7).

Breaches of the provisions of Law 4/2019 are classified into three groups:

1. it is considered a serious administrative infringement when companies do not comply with the quota percentage;
2. it is considered a minor administrative infringement when companies do not comply with the adaptation requirements of the assessment tests and the recruitment process is not suitable for persons with disabilities;
3. if a company repeats the infringement under Article 2, Numeral 2, it may be deprived of the right to participate in public tenders for up to two years.

The fines resulting from any violation of the provisions of this law revert to the Authority for Labour Conditions (ACT) (65 %) and to the National Institute for Rehabilitation (INR) (35 %), as the entity responsible for the development of policies for the inclusion of persons with disabilities. The fines are not fixed by law, but are calculated in accordance with Article 554⁸ of the Labour Code, and they depend on the company's turnover and the value of the procedural account unit as determined when the fine is processed.

In its latest report of 2021,⁹ the Observatory of Disability and Human Rights (ODDH) noted that the quota scheme in the private sector has not yet had a significant impact on the number of persons with disabilities employed in that sector, probably due to the transition period for implementation that the law envisages. The report also identifies that, although there was a growth of 7.7 % in the number of employees with disabilities in private sector companies with more than 10 workers in 2019 compared to 2018 (+982 workers), the majority of the workers with disabilities in these companies belonged to the 45-to-64 age group (61.86 %), with only 9.73 % in the 18-to-34 age group. This suggests that most of the employees with disabilities are not new hires, but workers who have acquired impairments or chronic illnesses while already working for a company and who remain there as employees afterwards. It must also be stressed that, in Portugal, any person with a cancer diagnosis gets a certificate of incapacity of 60 %, and therefore 'counts' as a disabled person, even for the purpose of filling up employment quotas. Altogether, employees with disabilities in private sector companies with over 10 employees make up only 0.58 % of the total number of workers.

⁷ Law 4/2019 of 10 January, <https://files.dre.pt/1s/2019/01/00700/0008900090.pdf>.

⁸ Article 554, Labour Code, https://www.unl.pt/sites/default/files/codigo_do_trabalho.pdf.

⁹ Persons with disabilities in Portugal, Human Rights Indicators 2021, <http://oddh.iscsp.ulisboa.pt/index.php/en/2013-04-24-13-36-12/publications-of-oddh-researchers/item/561-report-oddh-2021>.

In the same report, the ODDH indicates that, of the total number of employees in the public administration sector in 2020, only 2.62 % were employees with disabilities. So, while it has been over 20 years since the quota scheme entered into force in the public sector in Portugal, the country is still well below the level of 5 % of employees with disabilities that the scheme prescribed.

2.2 Tax relief / reduced social security contributions / wage subsidies for employers employing persons with disabilities

In Portugal, measures to promote the employment of persons with disabilities include two modalities: wage support and social security payment reduction. There is no tax relief for employers of persons with disabilities.

In 2019, the Parliament introduced modifications to the Labour Code through Law 93/2019.¹⁰ The changes seek, among other things, to promote the employment of persons with disabilities. In Article 85, the law outlines that the state must encourage and support the employment of persons with disabilities, and it states in Article 86, Numeral 4, that measures to protect the employment of persons with disabilities and chronic illness may be regulated by law or legal provisions in which incentives for employers and/or for employees should be included. Since 2020, the Government has implemented programmes to address the labour market crisis produced by the pandemic in order to reduce the unemployment rate, namely:

- Ordinance 206/2020 of 27 August regulating *Estágios ATIVAR.PT* (ACTIVATE.PT internships), which are aimed at supporting the inclusion of young people in the labour market and the professional training of long-term unemployed people. These internships target all age groups and explicitly include persons with disabilities as beneficiaries under Article 3. The duration of the internship is 9 months for the general population and 12 months for specific groups, including persons with disabilities (Article 8). Interns are entitled to a monthly individual grant (that also covers insurance and food subsidy) and a transportation subsidy in the case of persons with disabilities (Articles 11 and 12). If employers provide the intern a permanent employment contract within a maximum period of 20 working days from the end date of the internship, they are entitled to an award (*Prémio ao Emprego*), whose amount varies and can reach up to five times IAS¹¹ (EUR 2 216).
- Ordinance 207/2020 of 27 August regulating *Incentivo ATIVAR.PT* (the ACTIVATE.PT incentive), which provides financial support to employers who enter into contracts with people who are registered as unemployed with the National Institute for Employment and Vocational Training (IEFP), according to specific criteria: being unemployed for at least 6 consecutive months, being unemployed for at least 2 consecutive months, and the person being aged under 29 or over 45. However, regardless of the duration of unemployment, persons with disabilities are explicitly identified as beneficiaries of this measure (Article 6). The measure covers employment contracts with no fixed term or, in specific cases such as persons with disabilities, short-term contracts, provided they have an initial duration of 12 months or more (Article 7). For open-ended contracts, the

¹⁰ Law 93/2019 of 4 September, <https://files.dre.pt/1s/2019/09/16900/0003500051.pdf>.

¹¹ Value of Social Support Index (IAS) in 2022 (EUR 443.20).

financial support given to the employer is 12 times IAS (EUR 5 318.40). In the case of a short-term contract, the financial support is 4 times IAS (EUR 1 772.80). In the case of hiring a person with a disability, the amount of the support is increased by 10 % (Article 11). In cases of conversion from a short-term contract into a permanent contract, the employer is granted a conversion award of a variable amount up to 5 times IAS (EUR 2 216).

Recently, the Government introduced a new measure called the Sustainable Employment Commitment (*Compromisso Emprego Sustentável*) as part of the Recovery and Resilience Plan. It is regulated by Ordinance 38/2022¹² and consists of an exceptional and transitional measure that seeks to promote open-ended contracts for unemployed persons registered with the National Institute for Employment and Vocational Training – specifically persons with disabilities and young people (Article 2). The financial support set out in this ordinance determines the obligation to maintain the supported employment contract and the employment level achieved through this financial support for at least 24 months. The employment level is such that the number of workers is equal to or greater than the average number of workers registered in the previous 12 months and is to be verified every six months until the end of the 24 months.

Employers get 12 times IAS (EUR 5 318.40) and an amount that can increase by 35 % when a person with disabilities is employed under the terms of the ordinance. There are four other ways to increase the benefit, up to three of which can be used cumulatively. These are: (a) when the company is hiring persons under 35 years of age (25 %); (b) when the basic remuneration under the supported contract is equal to or higher than twice the value of the minimum guaranteed monthly wage (25 %); (c) when the job is located inland (25 %); (d) when the employer is part of a collective bargaining agreement (IRCT) (25 %).

The financial support provided shall be further increased by 30 % when hiring an unemployed person of the under-represented sex in a given profession, under the terms established by Ordinance 84/2015¹³ of 20 March. In the case of a part-time contract, the calculation is adjusted proportionally.

Under Ordinance 38/2022, the employer is entitled to financial support corresponding to half of the value of the social security contribution it must pay under the employment contracts entered into with persons with disabilities (and persons in other disadvantaged groups) during the first year. This financial support is calculated in consideration of the base remuneration established in the contracts to be supported. In no case can this support be higher than seven times IAS (EUR 3 102.40).

Another measure that seeks to protect employment and avoid job insecurity is CONVERTE+, regulated by Ordinance 323/2019¹⁴ of 19 September. It consists of transitory financial support for employers who decide to turn fixed-term contracts into open-ended contracts. To receive the benefit, employers must maintain the contract for at least 24 months after modifying its term. The employer is entitled to four times the monthly salary determined by the contract. This value cannot be higher than seven

¹² Ordinance 38/2022 of 17 January, <https://files.dre.pt/1s/2022/01/01100/0000900018.pdf>.

¹³ Ordinance 84/2015 of 20 March, <https://dre.pt/dre/detalhe/portaria/84-2015-66818377>.

¹⁴ Ordinance 323/2019, https://portugal2020.pt/wp-content/uploads/portaria323_2019-1.pdf.

times IAS (EUR 3 102.40) but it can be increased by up to 10 % if, among other factors, the person being hired is a person with disabilities.

Since these measures are relatively new, there is no data available to assess the impact of their implementation in promoting and securing employment for persons with disabilities.

2.3 Reasonable accommodation

The Portuguese Labour Code includes a section in which provisions for workers with disabilities are described. According to Article 86 of the code,¹⁵ employers must provide reasonable accommodation to facilitate access to employment and vocational training for persons with disabilities, unless such measures would impose a disproportionate burden on them. However, it is also stated that, when the state provides support for their implementation, these measures cannot be considered as causing a disproportionate burden. The same article mentions that the state should support and encourage employers in implementing reasonable accommodations, and it adds that further regulations may be approved to guarantee employment for persons with disabilities.

In 2006, the Government approved Law 46/2006,¹⁶ which prohibits and punishes discrimination on the grounds of disability and aggravated health risks. Article 5 defines discrimination in the workplace and employment. It points out that the denial of reasonable accommodations that do not constitute a disproportionate burden is considered a discriminatory practice against persons with disabilities. Article 7 establishes that victims of discrimination have a right to compensation, which the court must set by assessing the degree of the violation of their personal interests, the economic power of the offenders and the condition of the person discriminated against.

2.4 Other relevant actions targeted at employers

Every two years, the National Institute for Employment and Vocational Training recognises employers that have implemented inclusive and open management practices regarding persons with disabilities with the Inclusive Employer Award, regulated by Order 8376-B/2015.¹⁷ This award is intended to publicly and officially recognise employers that have helped strengthen inclusion in the labour market. Award-winning practices can relate to recruitment, development and progression, maintenance and recovery, accessibility, service or community relations. Employers can apply for one of these categories (Inclusive Employer Award) or all of them (Inclusive Employer Award – Excellence).

The Employment Operation for Persons with Disabilities or OED (*Operação de Emprego para pessoas com deficiência*) is a pioneering initiative that operates exclusively in Lisbon. It was created in 1991 by Fundação LIGA – a non-governmental organisation – and it works in partnership with Lisbon City Council and the National Institute for Employment and Vocational Training. OED supports recruitment and

¹⁵ Article 86, Labour Code, <https://sabiasque.pt/codigo-trabalho/1171-artigo-86-medidas-de-accao-positiva-em-favor-de-trabalhador-com-deficiencia-ou-doenca-cronica.html>.

¹⁶ Law 46/2006 of 28 August, <https://dre.pt/dre/legislacao-consolidada/lei/2006-156233888-156233996>.

¹⁷ Order 8376-B/2015, <https://files.dre.pt/2s/2015/07/147000001/0000200016.pdf>.

selection processes, provides information and promotes awareness raising for potential employers. It also supports analysis and adaptation of the workplace and offers consultancy services for companies. The service works as a bridge between persons with disabilities registered with the Lisbon employment service and companies. In summary, OED develops activities that help employers to enter into contracts with persons with a disability, covering technical support, monitoring integration and awareness-raising activities.

Recently, Santa Casa da Misericórdia of Lisbon created an initiative called Valor T, which supports persons with disabilities in identifying and fulfilling their professional potential. It promotes employability and supports employers through the selection, contracting and integration processes. The service helps employers to identify candidates for open vacancies, provides and supports workplace adaptations, and assists with the integration process.

2.5 Examples of good practice

The Inclusive Employer Award, which has been issued three times, recognised 11 entities from the public and private sector in 2017. In 2019, 28 entities were honoured with the award, and in 2021, 37 entities received the Inclusive Employer Award, while two received the Mention of Excellence. Given that this recognition seeks to give visibility to inclusive practices in the employability of persons with disabilities, and given the results, it may be said that public and private entities are interested in being recognised as inclusive companies and organisations.

The employment quotas in place for both the public and private sectors are also a good incentive measure, but they need to be more strictly enforced. So far, according to the available research,¹⁸ they seem to have had a greater impact on the job retention of workers with acquired disabilities than on improving access to the labour market per se.

The Employment Operation for Persons with Disabilities (*OED – Operação para o Emprego de pessoas com deficiência*) is a pioneering service that works to improve the inclusion of persons with disabilities in the open labour market in the city of Lisbon. Created in 1991, the agency, which is a partnership between a disability service provider (*Fundação LIGA*), Lisbon City Council and the National Institute for Employment and Vocational Training, provides services to support persons with disabilities in their job search through professional assessment, career guidance and the development of socio-professional skills. It also supports employers in the recruitment and selection processes and offers them information and advice on applying for the benefits provided by the state and on the adaptation of workplaces.

¹⁸ See the 2021 report from the Observatory on Disability and Human Rights at: <http://oddh.iscsp.ulisboa.pt/index.php/pt/2013-04-24-18-50-23/publicacoes-dos-investigadores-oddh/item/557-relatorio-oddh-2021>.

2.6 Good practice guides, websites and advice services directed at employers

It is important, first of all, to highlight that good practice guides, websites and advice services addressed directly to employers are not very common at the national level. However, there are still some good examples below.

Websites

National Institute for Employment and Vocational Training

The website of the National Institute for Employment and Vocational Training (<https://iefponline.iefp.pt/IEFP/index2.jsp>) has a specific page for measures to promote the employment of persons with disabilities, among others, and displays a list of information sources for employers and other beneficiaries. Each measure is clearly explained, and the website contains guides for applying to programmes and awards, detailing the relevant requirements and important dates to take into account. It also compiles all the applicable legislation for each measure or programme, describes benefits for employers and employees, and presents a summary of the relevant measure, explaining its key points.

Employment Operation for People with Disabilities

Another initiative that should again be mentioned is OED (Employment Operation for People with Disabilities – *Operação de Emprego para pessoas com deficiência*), which operates exclusively in Lisbon. This initiative was created by *Fundação LIGA* – a non-governmental organisation – in cooperation with Lisbon City Council and the National Institute for Employment and Vocational Training. The OED website allows companies to post vacancies, and it displays the services provided by OED in terms of supporting selection processes, providing information, awareness raising for potential employers, assessment and adaptation of workplaces and consultancy services. The service works as a bridge between persons with disabilities registered with the Lisbon employment service and companies.

‘Integration of persons with disabilities in the labour market: a guide for inclusion’

In 2020, the Metropolitan Area of Porto, in collaboration with GRACE-Responsible Companies, an association of companies that seeks to support and promote corporate social responsibility and sustainability, published a paper titled ‘Integration of persons with disabilities in the labour market: a guide for inclusion’.¹⁹ This guide compiles information on international and national regulations, support measures and incentives for employers who include persons with disabilities on their payroll. It also describes the main challenges for companies and the opportunities for labour inclusion, the role of municipalities, and the strategies and steps for including persons with disabilities in the labour market.

¹⁹ ‘Integration of persons with disabilities in the labour market: a guide for inclusion’, https://www.cm-gaia.pt/fotos/editor2/acao_social/2020/guia/guia_para_a_inclusao.pdf.

Good practice guides

Two guides are addressed to employers:

- 1) 'A guide for inclusive recruitment'²⁰ was drawn up by the Portuguese Association for Diversity and Inclusion (APPDI) and was published in 2021. It explains how to develop an inclusive recruitment process. The guideline constitutes a practical tool for HR teams in companies where inclusion is a concern.
- 2) 'How to recruit and integrate persons with disabilities: A toolkit for companies'²¹ was produced by GRACE in collaboration with Santa Casa da Misericórdia of Lisbon. This guide compiles information about recruitment strategies based on the experience of eight companies that have included persons with disabilities in their payrolls. It explains the process in five phases and constitutes a practical tool that employers can use for implementing good practices.

These two guides are tools that companies can use, but there is no available information about how many of them have implemented these recommendations and techniques. Unfortunately, it is not possible to confirm the number of companies that have downloaded these guidelines. There is no direct evidence to assess how these websites and guidelines work.

In terms of advice services, OED reported²² that 7 of the 16 companies they supported in 2021 responded to a survey, and all of them said that they were satisfied or very satisfied with the service provided by the organisation.

²⁰ 'A guide for inclusive recruitment', https://www.appdi.pt/wp-content/uploads/2021/09/Guia_Recrutamento_Inclusivo.pdf.

²¹ 'How to recruit and integrate persons with disabilities: A toolkit for companies', https://www.appdi.pt/wp-content/uploads/2021/09/Guia_Recrutamento_Inclusivo.pdf.

²² OED Report, 2021, <https://www.oed.com.pt/media/1343/rel-atividades-oed-2021.pdf>.

3 Support and partnerships available to employers to assist them in making reasonable accommodations

3.1 Support available to employers for making reasonable accommodation

The National Institute for Employment and Vocational Training (IEFP) has set up services to promote the employment of persons with disabilities under the umbrella of 'professional rehabilitation support', specifically within the category of 'support for integration', as regulated by Decree-Law 290/2009 of 12 October.²³ This support includes a set of integrative measures, in which persons with disabilities, potential employers and resource centres intervene:

Work placement support (*Apoio à colocação*)

This measure provides technical support for employers who are interested in hiring persons with disabilities, and covers reasonable accommodation with regard to the improvement of accessibility conditions and the implementation of workplace adaptations, as well as the reorganisation of work processes. The support is provided by resource centres, which receive financial support from the IEFP for every person with disabilities who is assisted through the programme (at a value of 1.5 times IAS). The costs covered include those for staff, rents, leases and the preparation and development of the actions and general project costs.

Post-placement follow-up (*Acompanhamento pós-colocação*)

This measure provides technical support to workers with disabilities and their employers, and is aimed at maintaining employment and protecting the career progression of persons with disabilities. Technical support is provided to employers who sign work contracts under the regular regime or the supported employment regime, who promote internships financed by the IEFP or employment inclusion contracts, or who maintain contracts of workers who have acquired an impairment.

Resource centres are responsible for implementing specialised interventions, such as:

- information, assessment and referral of candidates for vocational training or employment;
- adaptation of the workplace and elimination of architectural barriers;
- support to employers for the integration of workers with disabilities;
- support for the professional reintegration of persons who acquire impairments, specifically through the reorganisation of their professional functions;
- provision of technical devices required for vocational training and employment.

The maximum duration of the follow-up actions is 12 months, which may be extended to 24 months, in exceptional situations, namely in the case of persons with intellectual impairments. In the case of supported employment in the open market, the duration may be of 36 months, extendable annually, if necessary.

²³ Decree-Law 290/2009, <https://files.dre.pt/1s/2009/10/19700/0748207497.pdf>.

Workplace adaptation / removal of architectural barriers (*Adaptação aos postos de trabalho / Eliminação de barreiras*)

This measure provides financial support for employers who need to purchase adapted equipment or create accessibility in the workplace for workers with disabilities.

The financial support for workplace adaptations involves the following:

- in cases of signed employment contracts and supported employment contracts in the open market, the employer can receive a non-repayable subsidy up to 16 times IAS for each person with disabilities;
- for funded internships and *Contrato Inserção+* contracts, the employer can receive a non-repayable allowance up to 8 times IAS for each person with disabilities it has admitted. The employer can receive the remaining 50 % of the cost of a technical device up to 16 times IAS if the person with disabilities gets hired at the end of the internship through an open-ended or fixed-term work contract with an initial minimum duration of one year;
- the employer can also receive a non-refundable subsidy for maintaining a job, which cannot exceed 50 % of the total cost of the adaptation nor 16 times IAS.

For the elimination of architectural barriers, employers can receive a non-refundable subsidy up to 16 times IAS, which cannot exceed 50 % of the value of the construction work or the technical equipment purchased. The provision only covers buildings or establishments licensed or built before 8 February 2007.

Nonetheless, the financial support depends on verifying the indispensability of the adaptations, as confirmed by the employment centre or the employment and vocational training centre. The elimination of architectural barriers depends on the evaluation of a specific job and of the worker's performance at that job. Workplace adaptations and the elimination of architectural barriers are assessed in terms of their social profitability, analysing the placement alternatives and the professional aptitudes of the persons with disabilities concerned.

Apart from the provisions already mentioned in Section 2.3, Portuguese legislation has not expanded the definition of 'reasonable accommodation', and there are no other specific programmes to support or assist employers in implementing reasonable accommodations. However, Order 7225/2015²⁴ of 1 July, which regulates the Support Devices Allocation System (SAPA), established by Law 93/2009²⁵ of 16 April, assigns responsibility to the National Institute for Employment and Vocational Training for the administration of resources supporting the employment of persons with disabilities. These support products, as described by Order 7225/2015, Article 9, are those that are indispensable for access to or maintenance of an employment, and they are not considered job adaptations. The IEFP must fund the purchase of these devices through an evaluation and prescription process carried out by accredited entities.

Support devices that are indispensable for accessing or maintaining a job, for career progression, or for accessing and attending training shall be requested from the

²⁴ Order 7225/2015, https://www.seg-social.pt/documents/10152/12172521/Despacho+n.%C2%BA+7225_2015/707e9fa6-1a39-4cc2-99e2-807e800b3246.

²⁵ Decree-Law 93/2009, https://www.seg-social.pt/documents/10152/13169/DL_93_2009/19bb4f53-1c56-46f4-bb99-b5bef2902aaf.

competent employment service through submission of a request (available on the IEFP website). After evaluating the request, the employment service asks the resource centre for a complementary evaluation, considering the activities developed by the person with disabilities. If the evaluation results in a positive response, the resource centre issues a prescription for the support device required by the person. Numeral 4 of Article 9 specifies that items of equipment that are needed for workplace adaptation and that are intended for carrying out activities at the workplace are not eligible for funding through SAPA. Employers are exclusively responsible for providing this equipment.

Finally, it should be mentioned that the National Strategy for the Inclusion of Persons with Disabilities 2021-2025,²⁶ which the Portuguese Government adopted in 2021, provides for creating the profile of an 'employment mediator', who will follow up on the processes of recruitment, selection, placement, post-placement and progression in the workplace involving persons with disabilities. According to the strategy's general plan, this new post shall still be in place in 2024.

3.2 Partnerships to assist employers to make reasonable accommodations

The Employment Operation for Persons with Disabilities²⁷ (*OED – Operação de Emprego para pessoas com deficiência*) is a pioneering initiative created in 1991 by *Fundação LIGA* – a non-governmental organisation – in partnership with Lisbon City Council and the National Institute for Employment and Vocational Training. It assists with workplace adaptations and provides other services to support job candidates and employees with disabilities as well as employers who hire them. Throughout the 20 years of its existence, OED has developed alliances with 23 private companies that hire persons with disabilities. One of them received the Inclusive Employer Award's Mention of Excellence in 2021. The service operates exclusively in Lisbon.

Valor T²⁸ promotes the employability of persons with disabilities nationwide. It was created by Santa Casa da Misericórdia of Lisbon, in partnership with the National Institute for Employment and Vocational Training and the National Institute for Rehabilitation. A number of non-governmental organisations of persons with disabilities (NGDOs), municipalities, universities and companies are mentioned as partners on its website. As Santa Casa da Misericórdia is a member of European Lotteries, it has made a commitment with the European Disability Forum to contribute to the employability of persons with disabilities in Portugal.

FORMEM,²⁹ the Portuguese Federation for Vocational Training and Employment of Persons with Disabilities, represents 50 private non-profit organisations that develop vocational training and employment programmes for persons with disabilities. Among its other activities, FORMEM promotes socio-professional inclusive practices and is currently developing a European project on reasonable accommodation in the workplace in Portugal.

²⁶ National Strategy for the Inclusion of Persons with Disabilities 2021-2025, <https://files.dre.pt/1s/2021/08/16900/0000300071.pdf>.

²⁷ OED, <https://www.oed.com.pt/pt/paginainicial/>.

²⁸ Valor T, <https://valort.scml.pt/valort/>.

²⁹ FORMEM, <https://www.formem.org.pt/pt/>.

4 Illustrative examples of good employer practice for providing reasonable accommodations for persons with disabilities

4.1 Good practice guides for employers regarding reasonable accommodation

Although there are several guides for promoting the employability of persons with disabilities, only a few of them develop the concept of reasonable accommodation. Most of them, however, mention the benefits, measures and provisions established in the legislation regarding reasonable accommodation (see Section 2.3). Nonetheless, 'Integration of persons with disabilities into the labour market: a guide for inclusion',³⁰ in its point 4, 'Integration of persons with disabilities into the labour market', describes processes that can support employers in hiring persons with disabilities. It offers different strategies for all the phases of the hiring process: recruitment, selection, hiring, integration in the team, accessibility and relationships with other company stakeholders, such as service users, service providers, clients and families. The guide was published in 2020 by the Metropolitan Area of Porto in collaboration with GRACE-Responsible Companies, an association of companies that seeks to support and promote corporate social responsibility and sustainability.

There is no evidence on how the guides are being used by employers or on any effect they are having.

4.2 Any other sources of information regarding good practice for employers regarding reasonable accommodation

Annex II of Ordinance 8376-B/2015,³¹ which regulates the requirements and conditions of the Inclusive Employer Award, explains the criteria that companies must meet to be recognised as inclusive. Although it does not constitute a guide for employers, this legal document provides a blueprint of what are considered to be inclusive practices, and that can be useful for companies and organisations that want to integrate persons with disabilities. The ordinance sets out examples of good practices in four categories: (1) Recruitment, development and progression at work; (2) Maintaining and regaining employment; (3) Accessibility; and (4) Service and relationship with the community. All of these categories include measures regarding reasonable accommodation, such as the availability of positions for persons with disabilities and activities that facilitate their integration; the adoption of measures that ensure inclusive management; support for workers who acquire impairments and incapacity as a result of illness or accidents as they return to work; context and job content adaptation; ensuring accessibility; the adoption of inclusive communication practices and channels; and accessible information offered by the employer to the employees.

The Portuguese Association for Diversity and Inclusion,³² APPDI, has a library of resources to support employers in developing inclusive practices. Although the Association is not exclusively focused on the inclusion of persons with disabilities in the labour market, it promotes inclusive practices for the recruitment of persons with disabilities, and it supports employers in meeting the mandate of the Portuguese Diversity Letter. One of its projects, entitled Diverse and Active (*Divers@s e Ativ@s*),

³⁰ 'Integration of persons with disabilities into the labour market: a guide for inclusion', https://www.cm-gaia.pt/fotos/editor2/acao_social/2020/guia/guia_para_a_inclusao.pdf.

³¹ See: <https://files.dre.pt/2s/2015/07/147000001/0000200016.pdf>.

³² APPDI, <https://www.appdi.pt/plataforma-de-conhecimento/>.

is aimed at identifying discrimination, stereotypes and prejudices in the labour market and developing tools for promoting diversity, human rights and tolerance within organisations. The outcomes of the project include the design of guidelines for human resources professionals, a general guide for other professionals and training for workers from social organisations and companies.

4.3 Examples of individual reasonable accommodations which reveal good practice

The examples of individual reasonable accommodations which reveal good practice have been delivered by the OED (Employment Operation for Persons with Disabilities).

Computer engineer

A candidate at a Portuguese multinational company in the energy area has a degree in Computer Engineering. He has the Asperger Syndrome. There were several adaptations made during the whole process of employment, namely:

- Curricular evaluation phase: flexibility in the academic degree. For the candidate's entry programme a master's degree was required, however, the candidate's degree was accepted;
- Recruitment process phase including a pitch, written tests and interviews with area managers. The pitch was carried out in a group with all potential candidates, however, in the case of this candidate both the pitch and the tests were organised on an individual basis;
- Integration phase: selecting a work area and a team that best fitted the employee's profile, e.g. professional skills and characteristics of the condition. At the same time there was a meeting with the future managers of the candidate aiming at: awareness raising, information about the candidate's characteristics, advice about the daily routine and building up a good working relationship.

Warehouse manager

A candidate with auditory impairments applied as warehouse manager at an ice cream factory. The candidate was admitted. Adjustments had to be made to be able to implement his work. The company changed the procedure of ordering products by shops from the warehouse. Orders used to be made by telephone. Following the candidate's admission, the company placed a computer in the warehouse for receiving orders via email.

5 Recommendations and guidance regarding good practice and reasonable accommodation

5.1 Recommendations regarding good practice and reasonable accommodation in recruitment and hiring

As regards the recent legislation on the quota system for the private sector, the Government and companies should make all efforts to improve the employability of persons with disabilities considering all the phases of the recruitment and hiring process. In the first place, the National Institute for Employment and Vocational Training should formulate guides for companies to help them understand how to apply reasonable accommodations in the recruitment and hiring of persons with disabilities and how to make them available through a dedicated web page. The transition period for implementation of the quota law provides an opportunity for the private sector to get ready for the changes that must soon be in place. The Government should support that period of transition to guarantee that companies acquire enough knowledge, training and resources to promote the employment of persons with disabilities.

We consider that training for human resources professionals is particularly necessary, given their key role in this process. However, once a person gets hired, it is crucial to create strategies for helping employers, colleagues and persons with disabilities themselves to maintain the job, increasing the employee's motivation to stay at the company.

Reasonable accommodation focuses, in its initial phase, on the adaptation of procedures. We consider that, during this phase, human resources must identify the need for further adaptations by evaluating the recruitment process, analysing what is missing and assessing how they can improve their practices.

5.2 Recommendations regarding good practice and reasonable accommodation in initial employment

There is a lack of information on what reasonable accommodation in the workplace is. In the first place, we suggest creating practical guides to help employers understand the meaning of reasonable accommodation, its multiple forms, how to implement it in real cases, and making this available through a dedicated page on the website of the national employment agency (IEFP).

This web page should also include information about disability organisations and other services that can potentially support employers in needs assessment and in the development and implementation of reasonable accommodations, and it should present examples from companies which have already implemented good practices on reasonable accommodations, thus sharing information that other employers can use.

5.3 Recommendations regarding good practice and reasonable accommodation in promotion and career development

To stimulate the adoption of reasonable accommodations for promotion and career advancement, we suggest the creation of a special dedicated mention in any existing (or new) employers award competition.

Additionally, we suggest the following measures:

1. in the training provided for all employees, consider the specific needs of persons with disabilities, so that they are not excluded from opportunities necessary for career development;
2. make available financial support to employers to cover reasonable accommodations and accessibility needs in training for promotion and career development;
3. make available financial support to employers to cover reasonable accommodations and accessibility needs in the adaptation of new positions.

Finally, we recommend that guides for employers are drawn up and provided (notably through the above-mentioned website), with information about the legal requirements, the available support and potential partnerships, as well as examples of good practice.

5.4 Recommendations regarding good practice and reasonable accommodation in retention, i.e. enabling people to stay in work if they develop an impairment or their impairment changes

In addition to the development and provision of guides for employers (as described in Section 5.3 above), we recommend that companies promote inclusion by involving all employees in supportive practices through which they can become transformative agents. The idea is to create a network of support in workplaces and teams that are aware of the needs and the potential of employees with disabilities. Annually, companies should recognise inclusive teams and colleagues who actively integrate persons with disabilities.

In addition, we suggest creating a network among companies, enabling employers to share information and concerns about how to implement inclusive practices. The National Institute for Employment and Vocational Training, in collaboration with the National Institute for Rehabilitation, should drive this initiative. They should also organise events for employers to improve their knowledge of good practices, reasonable accommodation, benefits and so on, to encourage inclusive workplace practices.

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