

# LABOR INTEGRATION OF PERSONS WITH DISABILITIES IN PUBLIC INSTITUTIONS IN ROMANIA\*

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## Abstract

This research aims to investigate the extent to which the legislation aimed to improve and support the labor reinsertion of persons with disabilities is implemented by public institutions. The results suggest that the law provisions concerning labor reinsertion of persons with disabilities are followed to a lower extent than might be expected. Approximately 7% of the organizations that answered this survey and have more than 50 employees do not implement any of the provisions of the law, therefore having no employed persons with disabilities, not paying the contributions to the state budget, and without contracting of services from the protected workplaces. The other institutions employ fewer persons with disabilities than they should do (about 1% comparing to the 4% required by the law). Almost half of the public institutions prefer to use the second option provided by the law, namely to pay the contribution to the state budget instead of hiring persons with disabilities. Additional research is needed to extend this exploratory investigation.

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## **1. Background situation concerning facilitating labor integration of persons with disabilities**

The National Authority for Persons with Handicap registered as of September 30, 2007 a number of 482,924 persons with disabilities, (686,798 at March 31, 2010) number that suggests that Romania is below the average percentage of 10% in Europe and in the world, according to OECD and WHO data. After 1990, the number of protected workplaces decreased, which affected unfortunately primarily the persons with disabilities. The legislation adopted in 2006 was aimed to correct this situation, and includes extended provisions which stimulate the participation of persons with disabilities on the labor market.

The objective of this research is to conduct an exploratory national study concerning the way in which the employers in the public sector apply the provisions of the Law no. 448/2006 concerning the protection and promotion of persons with disabilities.

## **2. Literature review**

As part of the EU accession process, Romania had to follow a quite intensive route of adjusting its functioning framework to the EU standards. This process focused on a long-term institutional change, which was focused on political, administrative, social, and cultural rules and norms. All these were operationalized in the forms of legal provisions, or, to be specific, the famous approximately 80,000 pages of the *acquis communautaire*, which had to be included in the national legislation framework. This process was investigated in the literature from different perspectives: from “modernization” on the one side to “Europeanization” on the other side (Goetz, 2001), with policy transfer as a third angle of analysis. Modernization has seen the reform of public sector as a part of the reconstruction of the East European societies after the fall of the communism which was seen as a factor which delayed the development of the CEE countries, and focused primarily on the rebuilding of the political institutions (Linz and Stepan, 1996; Carothers, 2002). Within the Europeanization perspective, conditionality played an important role. The research focused upon issues varying from the impact and functioning of EU conditionality upon reform (Grabbe, 2006; Schimmelfennig *et al.* 2003; Schimmelfennig and Sedelmeier, 2004), transposition of EU directives (Toshkov, 2007; Leiber, 2007). The policy transfer approach looked at the way that information and know-how about political and administrative arrangements were transferred from one socio-institutional context to another (Dolowitz and Marsh, 2002; Radaelli, 2000). In this article, the issue of implementation of EU provisions concerning improving the access of persons with disabilities to public institutions is being analyzed from the Europeanization perspective. The starting assumption is that in order to be member of the EU, the state institutions need to be rebuilt in order to be able to function properly within the network of the institutions and to implement the *acquis communautaire* (Dimitrova, 2002). In this sense, we start by looking at the requirements that EU documents set concerning labor integration of persons with

disabilities and explore the extent to which Romanian legislation addressing the issue is being followed by public institutions.

Why is the issue of equal access of persons with disability so important? There are two reasons, namely, equity issues and economic ones. Research results show that people with disabilities are to a large extent excluded from the labor market (Kidd *et al.*, 2000; Kruse and Schur, 2003), that within the target group women are more often excluded (Bound and Waidmann, 2002), and that persons with intellectual or learning disabilities are more often discriminated than persons with physical disabilities (Cook, 2003; 13. Micluția *et al.*, 2005). In terms of the economic situation, aging and the increasing need of using all possibilities existent on the labor market are important. Equal opportunity and open access can make for one person the difference between being active on the labor market and being dependent from the welfare. Within the tendency to reform the welfare state through cost control, limiting the patronizing tendencies of social welfare, and encouraging labor participation, people with disability were identified as target group for immediate action.

In this direction we can note two policy developments. First<sup>1</sup>, 2003 was declared by the European Commission as the European Year of Persons with Disabilities, and, consequently, a set of Resolutions were adopted towards supporting the access of persons with disabilities to a life as regular as possible. Access to education and training (2003/C 134/04), access to electronic facilities and knowledge society, (eAccessibility (2003/C 39/03)), and access to work and social integration (2003/C 175/01) is encouraged through the Resolutions that were adopted during that year. Member States were encouraged to take appropriate measures addressing the issue of equal opportunity of persons with disabilities. Second, in 2007 the UN Convention on the Rights of Persons with Disability was signed by the EU. This ultimately implied that disability is defined as an issue of human rights and therefore in need of regulation via the law. In order to monitor the situation, clear objectives concerning equal access of persons with disability were set in the EU Disability Action Plan (DAP) 2003-2010. Consequently, disability issues were channeled into EU policies and monitored in two-year phases (SEC(2007)1548).

During the process of accession negotiations in Romania, efforts were conducted towards fulfilling the EU standards addressing the issue of equal access of persons with disabilities. The central piece of legislation developed was the Law no. 448/2006 concerning protection and promotion of rights of persons with disabilities. In terms of labor integration of persons with disabilities, this Law provided that an employer (be it either public or private organization) fulfills his social obligations towards persons with disabilities when choosing for one of the following options:

1. If the organization has more than 50 employees, 4% of personnel will consist of persons with disabilities.

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1 Concerns on the issue and policy were present before in the EU policies, we focus here on the developments since 2000.

2. Pay to the state budget a fee equal to 50% of minimum salary per economy multiplied with the number of workplaces for which no persons with disabilities were hired.
3. Purchase products or services in value of the fee mentioned at point 2) from companies which are authorized and provide protected workplaces.

The central point of this investigation focuses on investigating to what extent the provisions of the corresponding Romanian legislation (Law no. 448/2006) are being implemented by the public institutions. The article will continue with a presentation of the way in which the research was conducted. The following section will show a summary of the results, and then the last paragraph will discuss the conclusions.

### **3. Methodology**

Between June and August 2009, ActiveWatch – The Agency for Press Monitoring has sent a number of 200 public sector institutions in Romania a standard survey concerning the implementation of Law no. 448/2006 in those institutions in the period 2007-2008. The primary goal of investigation was oriented towards finding information concerning the situation of employment of persons with disabilities in those institutions, payment of the contributions to the state budget, and purchasing of services from protected companies. The survey requested also an estimate of the investments and investment plans for 2009 dedicated to developing the access of persons with disabilities to the buildings.

The institutions were selected following the criteria of territorial distribution and type of institution. Institutions in all eight Development Regions were contacted. All types of institutions that could provide an example in terms of inclusive policies were contacted: ministries, prefectures, town- and city-halls, and commerce chambers. The analysis of the response rate gives some interesting results. Out of a total 200 addresses, 21 institutions did not offer any answer, even though the information was requested using the provisions of the Freedom of Information Act. Further details concerning the response rate are provided in the Results section.

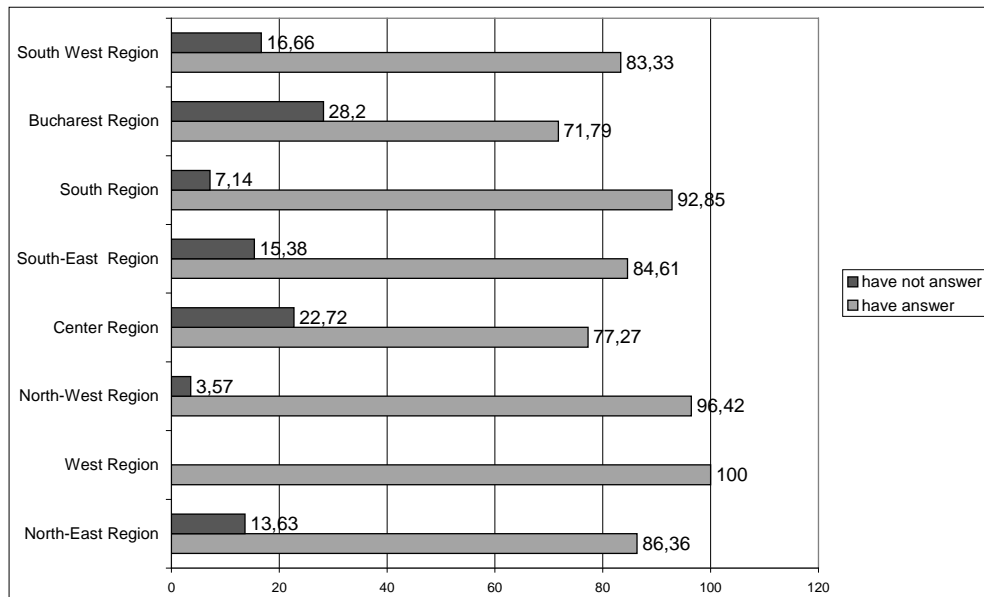
### **4. Results**

#### ***4.1. Response rate***

It is interesting to note that approximately 10% (21 institutions) did not offer any answer. The Freedom of Information Act (FOIA) provides that this information should be openly available when the information is officially requested therefore by not answering the request FOIA is breached.

In terms of territorial distribution of the answers, one can detect a particular pattern. Namely, the institutions in the West and North-West regions have answered promptly in comparison with Bucuresti-Ilfov and Center Regions, which have not (see Figure 1– Response rate per development regions). These response trends can be interpreted from different perspectives. Among the explanation one can include

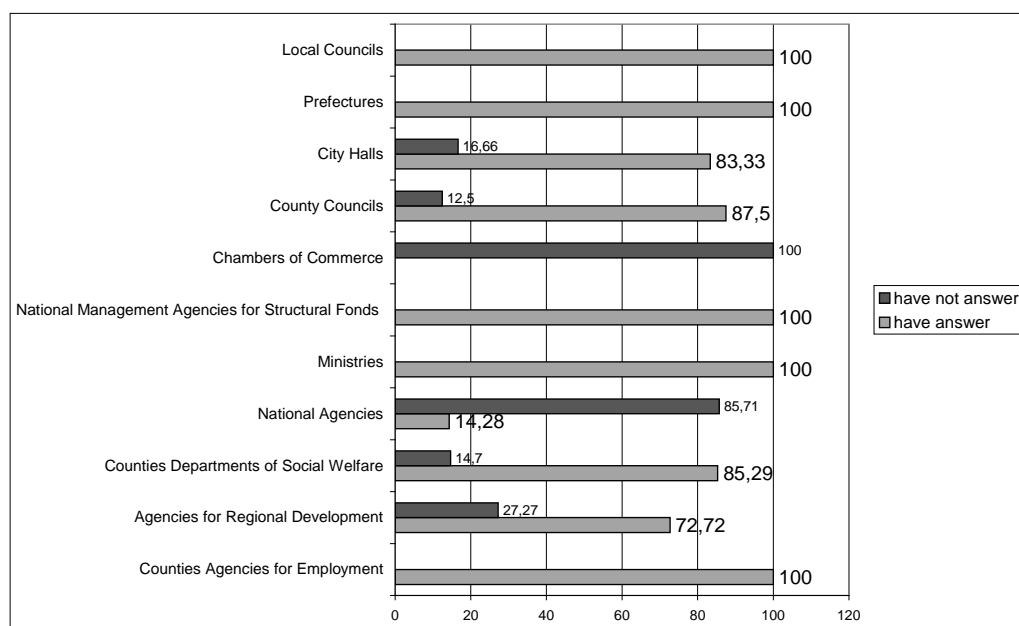
a) general responsiveness of the decision-makers on requests based upon the FOIA, or b) a different level of interest (higher or lower) for issues of social and vocational inclusion of persons with disabilities. From the current data one can not exactly determine an explanation for this different pattern of answers among different regions, but it would be interesting to conduct extra research on the issue.



**Figure 1:** Response rate per development region

**4.2. Quantitative data concerning the employment situation of persons with disabilities and access to buildings**

There are differences in the pattern of answers offered depending on the type of the institution. The following categories of institutions have answered in a higher degree to the survey: local councils, prefectures, national agencies, and County Agencies for Work (AJOFM). A partial, low or no answer was obtained from town-halls, county councils, and especially the Agencies for Regional Development (coded “EU reg.” in Figure 2), and the agencies responsible for the management of structural funds associated to the different ministries (coded EU national – institutions such as Management Authority POS). Given that in the sample only one chamber of commerce was contacted and no answer was received, it is recommended that the results concerning Chambers of Commerce should be interpreted with care.



**Figure 2:** Response rate per type of institution<sup>2</sup>

#### 4.2.1. Employment of persons with disabilities

Current analysis starts from the premise that public institutions have an illustrative public role in supporting the issue of social insertions, access and work of persons with disabilities. Out of the 181 institutions that have answered the questionnaire, 136 have above 50 employees and were included in the current analysis as relevant for the provisions of Law no. 448/2006. Out of these institutions, 58.6% have employees as persons with disabilities, according to the data included in Table 1.

**Table 1:** Institutions with more than 50 employees that have employed persons with disabilities

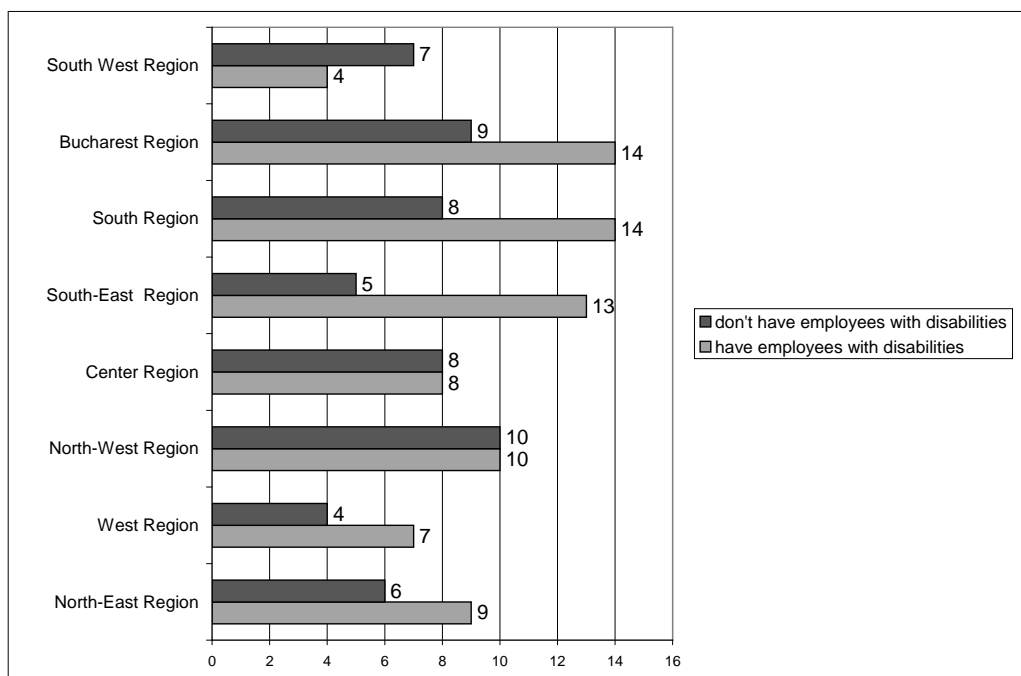
Type of institution		Have employees persons with disabilities	
		Yes	No
Counties Agencies for Employment	Number	4	1
	%	80.0%	20.0%
Agencies for Regional Development	Number	1	4
	%	20.0%	80.0%
County Departments of Social Welfare	Number	24	1
	%	96.0%	4.0%
National Agencies	Number	0	1
	%	.0%	100.0%

<sup>2</sup> The variable “National agencies” included National agencies POS-DRU operating in different fields, such as for environment, employment etc.

Type of institution		Have employees persons with disabilities	
		Yes	No
Ministries	Number	6	5
	%	54.5%	45.5%
National Management Agencies for Structural Funds	Number	2	0
	%	100.0%	.0%
County councils	Number	16	11
	%	59.3%	40.7%
Town/City Halls	Number	21	6
	%	77.8%	22.2%
Prefectures	Number	3	26
	%	10.3%	89.7%
Local Councils	Number	1	0
	%	100.0%	.0%

From the analysis of the table results that County Agencies for Employment and Work and to a certain extent town/city halls have a higher number of persons with disabilities as employees, whereas prefectures do that to a lower extent. There can be multiple explanations for this result, political as well as pragmatic ones. On the one hand, it can reflect a situation where the social inclusion of persons with disabilities is not a priority of the central government (prefectures being institutions that represent the cabinet at local level). On the other hand, it can reflect an issue of opportunity, as County Agencies for Employment and Work and Town and City Halls have more contact and work experience with the target group. Regardless of which justification is being used, the end result reflects a difference in involvement of public institutions in the issue of social inclusion of persons with disabilities and there are measures to be taken in that respect.

If we analyze the regional distribution of the answers per Euro-region, we can note that the Region SW-Oltenia has a higher number of institutions which did not employ persons with disabilities in comparison with the other regions (see Figure 3). It must be mentioned, as a limit to the study, that the results should be interpreted with caution, as the regions București-Ilfov and Muntenia were over-represented. Moreover, in the Region București-Ilfov also central institutions were included (as, for instance, the ministries, together with the euro-regional and local ones. In addition, Euro-regions SW Oltenia and West were under-represented in the sample, with 11 institutions each, comparing with 24 institutions which have answered, for instance, in the Region South –Muntenia.



**Figure 3:** Employment of persons with disabilities, in institutions, per euro-regions

The number of institutions who have employed persons with disabilities is a first criterion for analysis. Equally important is also whether the institutions fulfill the second provision of the Law, namely that whether they have minimum 4% of employees persons with disabilities when the organization has more than 50 employees. The data is presented in Table 2.

**Table 2:** Average percentage of employed persons with disabilities in public institutions, reported per 100 employees

Type of institution	Average percentage employees persons with disabilities	Number of institutions
Counties Agencies for Employment	1.80	5
Agencies for Regional Development	0.33	5
Counties Departments of Social Welfare	1.15	25
National Management Agencies for Structural Funds	0.00	1
Ministries	0.25	11
National Agencies	1.46	2
County councils	0.79	27
Town/City Halls	0.82	27
Prefectures	0.28	29
Local Councils	0.82	1



Table 2 includes averages of numbers of persons with disabilities employed in public sector institutions that have more than 50 employees. At the level of the whole sample one can note an average of 0.7% persons with disabilities, almost six times lower than the 4% that law 448/2006 provides for. County Agencies for Employment and Work and County Agencies for Social Protection have on average the highest percentages of employees persons with disabilities (1.8 respectively 1.15%). The lowest percentages of employed persons with disabilities are to be found in ministries and prefectures, the latter registering the lowest numbers.

**Table 3:** Total number of employees reported per number of persons with disabilities, per type of institution

Type of institution	Number of employees without disabilities per employed person with disabilities	Number of institutions
Counties Agencies for Employment	52.26	4
Agencies for Regional Development	60.00	1
Counties Departments of Social Welfare	134.21	24
Ministries	1646.10	6
National Agencies	68.33	2
County councils	119.27	16
Town/City Halls	247.74	21
Prefectures	46.83	3
Local Councils	121.00	1

To conclude, in the institutions that have reported the number of employees, out of a total of 314,978 employees, only 637.5 (0.5 representing half FTE) are persons with disabilities.

#### 4.2.2. *Payment of the contributions according to the Law no. 448/2006*

Most of the institutions that have answered to this survey prefer the second option offered by the law, namely the payment of compensation to the state budget for the positions where they did not employ a person with disability. Due to the way the questions of the survey were answered (monthly amounts or annual or multi-annual amounts) we cannot centralize the results for all institutions.

Table 4 summarizes the average amounts paid by the institutions to the state budget, pending on the type of institution. In Table 5 are included the average amount paid to the state budget by the institutions that have been included in the study per development region.

**Table 4:** Average amounts paid by the institutions to the state budget per type of institution (RON) [N=138]

Type of institution	Average paid	Number of institutions
Counties Agencies for Employment	2,073.42	7
Agencies for Regional Development	944.57	14
Counties Departments of Social Welfare	40,565.50	26
Ministries	31,065.45	11
National Agencies	8,700.00	2
County councils	13,284.65	23
Town/City Halls	19,851.29	24
Prefectures	4,264.50	30
Local Councils	15,291.00	1
Total	17,150.47	138

**Table 5:** Average amounts paid by the institutions to the state (RON) [N=141]

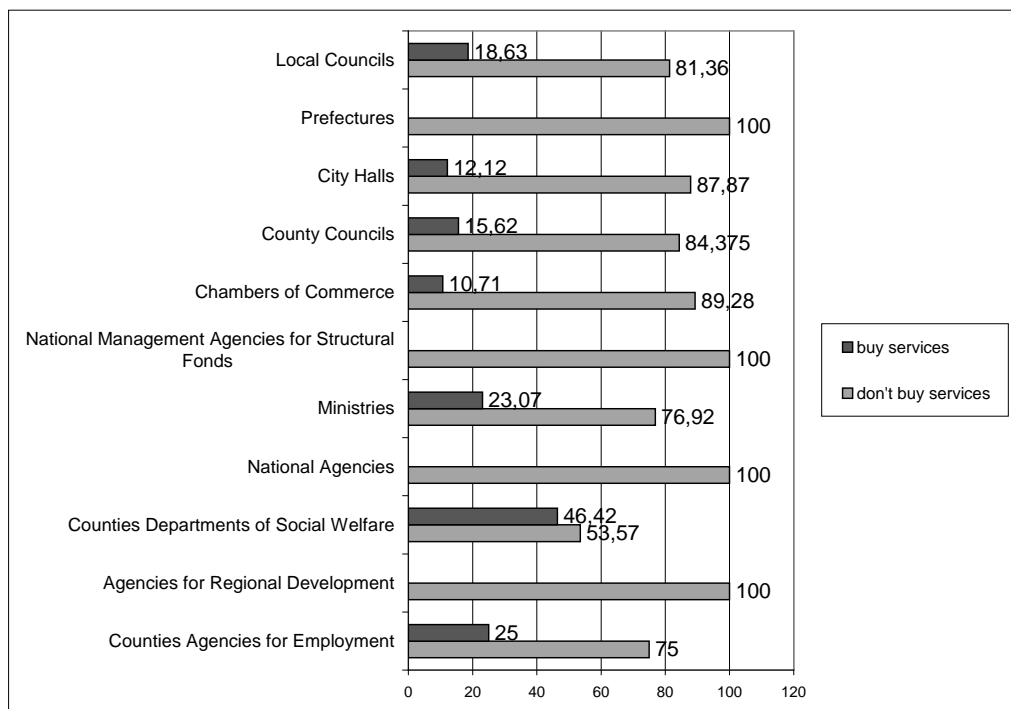
Region	Average paid	Number of institutions
North- East Region	34,133.80	15
West Region	10,803.64	14
North-West Region	10,026.72	22
Center Region	13,778.50	14
South-East Region	18,505.76	17
South-Muntenia Region	17,809.90	21
Bucharest-Ilfov Region	29,959.20	24
South-West-Oltenia Region	5,410.21	14
Total	18,156.84	141

From the Table 4 above one can note an increased contribution coming from the County Departments of Social Welfare and ministries. The former institutions register a large number of employees; therefore they should contribute with a large amount of money to the state budget if they choose for Option 2 of the law. On the other hand, the latter institutions (ministries) some have a rather small number of employees, therefore it is logical to expect a smaller contribution to the budget, as well as fewer employees persons with disabilities. Interestingly enough, at the prefecture level one can note both a relatively low number of employees' persons with disabilities, as well as the lowest level of contribution to the state budget for Option 2.

#### 4.2.3. Contracting of services

A third alternative offered by the Law no. 448/2006 consists of contracting services from social and protected workplaces. This option is to a relatively low extent used by the public institutions, being preferred usually by County Agency for Social Protection and County Agencies for Employment and Work. Out of 138 institutions, most of

those that purchase services use also Option 2, namely paying a certain amount to the state budget. Only eight institutions (5.8%) from those that have answered do use this option. Figure 4 presents the situation of the institutions that have answered to this study. The most striking result comes from the situation concerning the Regional and National Agencies that administer EU funds and the prefectures, all these institutions do not use option 3 of the Law.

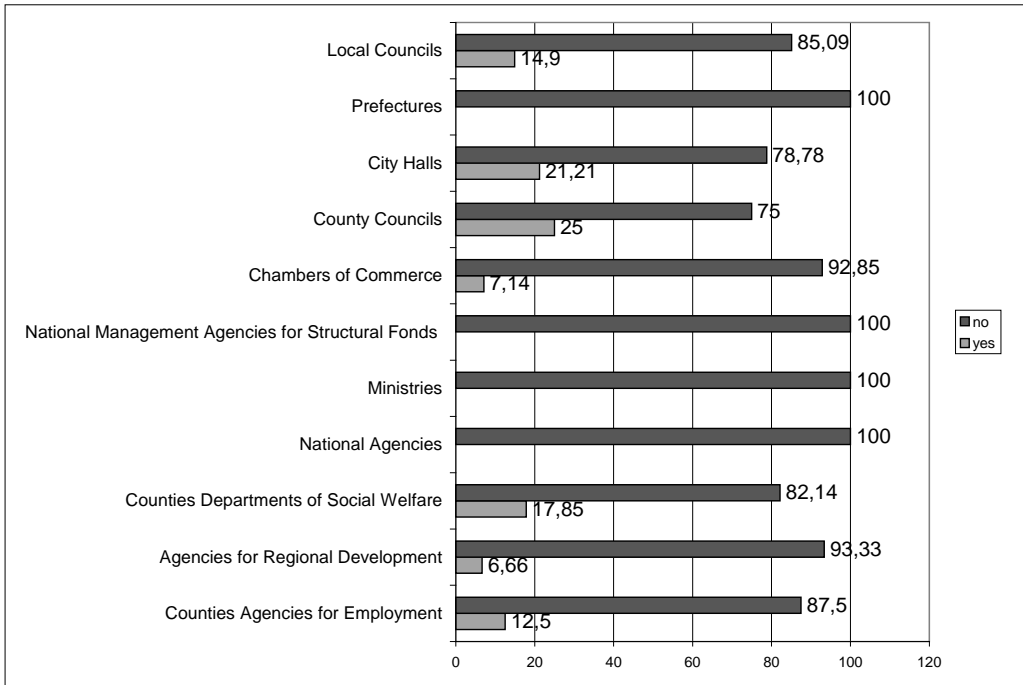


**Figure 4:** Percentage of institutions which purchase services from social and protected workplaces

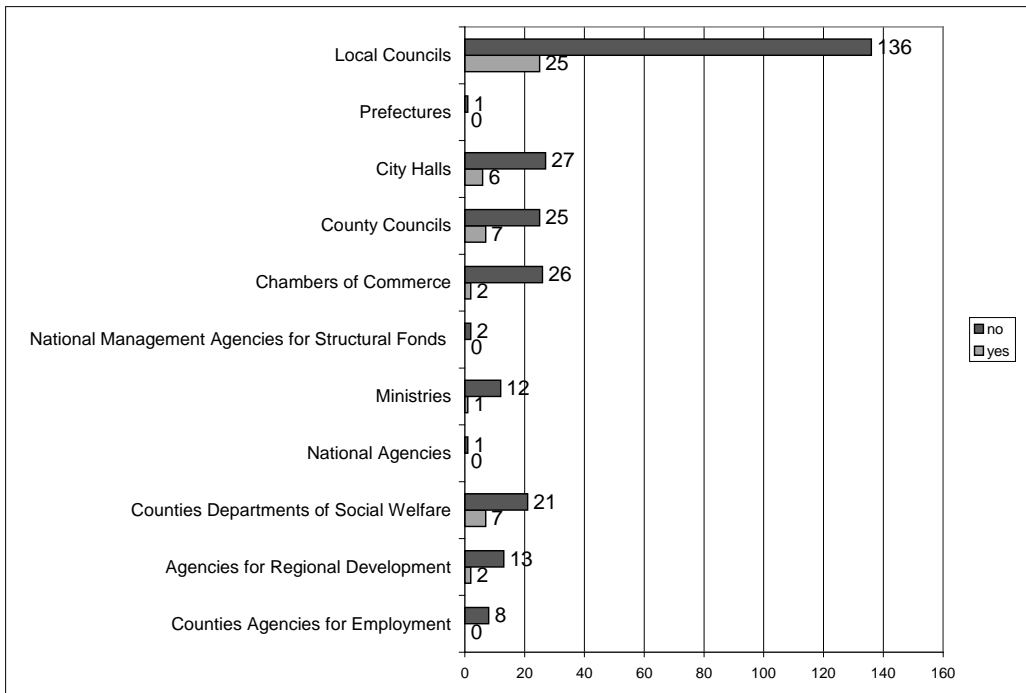
### 4.3. Investments towards improving the access to the public buildings

One of the first steps conducted in the recent years in order to improve the social integration of persons with disabilities consists of improving the access to public buildings. It is worthy to note that improving access refers only to the physical access to the buildings, giving thus preference to persons with physical disabilities (through access ramps, toilets for persons with physical disabilities, platforms etc.).

The institutions were requested to present the situation concerning the investments made in the recent years in order to improve the access to the public buildings, as well as a forecast for the investment level for the current year. It is interesting to note that in this respect, prefectures, National Management Agencies for Structural Funds, ministries, and National Agencies that have participated in the study have answered negatively to the question concerning investments (Figure 5).



**Figure 5:** Intention to, or existence of investments to improve the access to buildings, per type of institutions



**Figure 6:** Intention to invest in 2009

If we analyze the situation of investments for the last two years (2007-2008) in comparison to expected investments for 2009 for the 133 institutions that have answered to our request, we obtain the following situation: (Figure 6):

- In 2007-2008 the value of the investments is higher than 2.5 million Euros, in a context of economic growth and post EU accession.
- In 2009, fewer institutions anticipate investments on this area. For instance, only four institutions that in 2007-2008 did not have a plan for investments on improving access to the building have developed such a plan for 2009, however with a higher volume of investments. The institutions are uniformly distributed per euro-regions. This slowdown of the intention to invest could possibly be explained as an “EU accession effect”. That is, there is no need to continue with investments because they were done before the accession. But it should be further checked whether this is indeed so.

The investments aimed to improve the access to buildings planned for 2009 are decreasing, primarily within the context of the economic crisis. This decrease manifests both in terms of volume, and of number of institutions that address the issue of improving the access to buildings of persons with disabilities. Such a lack of continuity in investments can represent a problem for the future, and measures should be taken to attend to. One such possibility would be, for instance, that the money that are collected under the Option 2 of the Law should be included in a special fund aimed to finance the investments needed to improve the access to public buildings.

## **5. Conclusions**

This research aimed to investigate the extent to which the legislation aimed to improve and support the labor reinsertion of persons with disabilities is implemented by public institutions. A survey was conducted in the summer of 2009 concerning the implementation of Law no. 448/2006 in 200 public institutions during the period 2007-2008. When looking at the findings, one can conclude that the most significant trend detected is that the law provisions concerning labor reinsertion of persons with disabilities are followed to a lower extent than might be expected. This is alarming considering that a relatively large percentage of the institutions initially addressed by this survey do not follow the law, not only by not answering to a request that they ought to (10%), but also because the information they provided leaves little room for a different interpretation. Approximately 7% of the organizations that answered this survey and have more than 50 employees do not implement any of the provisions of the law, therefore having no employed persons with disabilities, not paying the contributions to the state budget, and without contracting of services from the protected workplaces.

From the institutions which do follow the law, they employ systematically fewer persons with disabilities than they should do (about 1% comparing to the 4% required by the law. As far as the preference for the options provided by the law is concerned, it is interesting to note that almost half of the public institutions prefer to use the

second option provided by the law, namely to pay the contribution to the state budget instead of hiring persons with disabilities. This could be explained on the one hand due to direct or indirect discrimination towards persons with disabilities (issue which requires further research), or, on the other hand, as a pragmatic approach. Namely, in times of crisis organizations prefer to invest scarce resources into something else than in making workplaces accessible or support for persons with disabilities. Option three, which is contracting services from the protected workplaces, is also used to a rather reduced extent. These results are even more disquieting considering that the subjects of this inquiry are public institutions, which should provide (at least in theory) an example for the society. Moreover, the fact that those public institutions involved in administering European funds score lower than the other is even more worrisome and summons questions concerning the implementation of the legal provisions.

There is not sufficient data obtained through the questionnaire to analyze either the profile of the employees' persons with disabilities in public institutions, nor the type of work they do. The literature (Cook, 2006) suggests that we can expect that there should be more persons with physical disabilities employed. Then, the persons with sensorial disabilities follow, and that persons with mental health or psychological disabilities should be under-represented. The data obtained in a different part of the research project where interviews were conducted seems to confirm this premise, but this issue will be addressed elsewhere.

The picture drawn by these results suggests that the implementation of the legislative provisions concerning the labor reinsertion of the persons with disabilities in the Romanian public institutions is rather limited. According to the conditionality thesis, specific for the Europeanization perspective, we could expect that once the candidate country becomes an EU Member State, the motivation to implement the provisions of the *acquis communautaire* decreases. The findings of this study confirm this expectation. However, one can argue that this was an exploratory research, that the research was conducted in a relatively short period (two years) and that a relative de-motivation for reform immediately after EU accession can be explained through the "reform tiredness". Nevertheless, further research is needed in order to investigate these results at national level and on a longer time-span.

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