

Payments to the National Rehabilitation Fund for People with Disabilities as a Stimulant to Employ People with Disabilities during the COVID-19 Pandemic

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Abstract: The aim of the study is to determine the changes in the employment of people with disabilities during the pandemic and the effectiveness of the system of financial penalties for employers in the event of failure to comply with the statutory obligations to employ people with disabilities as incentives to employ such people.

The time range of the research was set for the years 2017-2021 and the first half of 2022.

The following research methods of a general nature were used in the article: the method of analysis and criticism of source literature, the inductive and deductive method, as well as analysis and synthesis. In addition, detailed methods were also used: descriptive, monographic and document research.

Research hypothesis: financial penalties imposed on employers for not employing the percentage of disabled people required by law were more effective in stimulating employers to improve the employment rate of people with disabilities during the COVID-19 pandemic than before its outbreak.

In the light of the conducted research and literature studies, the effectiveness of penalties as a stimulant to employ people with disabilities in particularly difficult macroeconomic conditions was noticed.

Keywords: people with disabilities, employment, quota system.

1. Introduction

The COVID-19 pandemic (Gorbalenya et al., 2020), which appeared in China in 2019 and in Europe at the beginning of 2020, has, according to data from August 2022, affected almost 600 million people in practically all corners of the world, and caused the deaths of nearly 6.5 million people (COVID-19 Data Explorer) – Our World in Data. The pandemic has changed many people's lives, and its effects have been felt across entire sectors of the economy. Governments of individual economies took more or less drastic measures in order to prevent the spread of the pandemic. Due to a lack of effective pharmacological methods for preventing infection with COVID-19, social distancing and a restriction on socio-economic life to the essential minimum were introduced, termed as lockdown, defining isolation as related to enclosing in a given area, blocking the possibility of moving and leaving a given area, and isolation in its general understanding (see Longman Dictionary of Contemporary English Online, Pearson Education Limited). The forms of lockdown introduced in individual countries around the world differed mainly in terms of the degree of social and economic isolation depending on the course of the pandemic and the policies adopted for fight the spread of the pandemic (e.g. in Sweden, limits on social interaction were merely suggested, while in Italy it involved the periodic lockdown of whole communities and the closure of many sectors). As the pandemic spread, the socio-economic effects became ever more perceptible. For example, in countries with an economy based on tourism (countries in the Alps or the Mediterranean basin), a particularly difficult situation was experienced by entrepreneurs operating in sectors related to tourism services, including accommodation, catering and leisure. In other countries, e.g. in the United Kingdom, in addition to the above problems in the tourism industry, problems were also seen in sectors related to childcare, retail sales of manufactured goods, personal transport, cinematography and art (UK Economic Outlook). It is certain that in other highly developed countries where governments introduced a strict lockdown of their economies, the problems were similar and the economic costs high and still ongoing (Asahi, Undurraga, Valdés, and Wagner, 2021).

Individual countries introduced direct financial aid and a system of tax breaks and preferential tax rules for entrepreneurs that had suffered as a result of the lockdown and pandemic. However, the assistance they received and the financial support aimed at them was in many cases insufficient and ineffective. For example, in the United States between February and April 2020, over 3 million entrepreneurs radically limited or closed their business activity entirely, something that had never happened in the history of the USA (Fairlie, 2020).

The socio-economic effects of COVID-19 should also be considered through the lens of certain groups in society on the labour market. The results of research conducted in many countries on this topic confirm a certain regularity, indicating that after the initial shock to the labour market caused by the shutdown of economies and redundancies, relatively rapid increases in employment were noted (Cheng, et al., 2020; ODEP, 2020). This could have been influenced by the specific legal solutions used for protecting jobs during the pandemic, as well as by financial support systems for employees and their employers. In particular, this concerned groups that are less competitive on the labour market, and who are especially at risk of losing their job and becoming unemployed in times of the socio-economic crisis caused by the COVID-19 pandemic.

This study attempted to analyse and assess the effectiveness of selected legal and financial tools within the scope of the quota system used both in Poland and around the world to encourage employers to employ people with disabilities. The main focus was centred on the payment of financial penalties by employers that did not reach the legally required percentage of employment of people with disabilities as a stimulant to employ such people both before the outbreak of the COVID-19 pandemic, and in the two years it lasted in Poland.

The aim was to determine the changes occurring in the employment of people with disabilities during the pandemic, and the effectiveness of the system of financial penalties imposed on employers that did not reach the legally required percentage of employment of people with disabilities, as a stimulant to employing such people.

For the purposes of this paper, the following research hypothesis was formulated: the financial penalties imposed on employers due to not employing the legally required percentage of people with disabilities were more effective in terms of stimulating employers to improve the rate of employment of people with disabilities during the COVID-19 pandemic than prior to its outbreak.

2. The quota system and its role in stimulating the employment of people with disabilities

People with disabilities are commonly included among those at a disadvantage on the labour market and under threat of social exclusion. These people often suffer from poverty and privation (in developing countries at around 80%). The majority of people with disabilities in these countries live in rural areas and have limited access to basic goods (*Media Guidelines...*, 2010).

Research into the situation on the labour market of people with disabilities showed that a disability can be a significant barrier to effectively competing on the job market (Berthoud, 2008). It can also be said that work is a process of rehabilitation that is unfamiliar to fully able people and is the next stage in the self-development of people with disabilities (Bruce and Schuetze 2004). Improvement of their material well-being can be an encouragement for people with disabilities to enter the job market (Clark and Drinkwater, 1998), as although a considerable proportion of them receive benefits, in many cases these do not even meet their basic needs.

Action to increase the employment of people with disabilities is carried out by both state administrative bodies and local authorities. This is done by, among others, financial incentives aimed at employers that are designed to compensate for the need to overcome the above barriers and as a result improve the attractiveness of people with disabilities on the job market. In many countries, a system of legal obligation is also used requiring the employment of an appropriate percentage of people with disabilities. This is called a quota system and is used in numerous countries around the world (although mainly in Europe) (Greve, 2009).

The beginnings of the quota system date back to the First World War, originating in a law used in Germany and Austria to guarantee the right to work and the integration of disabled veterans (Razlin and Roose, 2010). The quota system quickly found favour in other countries, especially after the Second World War. In the European Union, there are several variants used across the definite majority of member states, including: Austria, Czechia, France, Germany, Greece, Hungary, Italy, Slovakia and Poland (Koza, 2015a). The quota system is not used in: Denmark, Estonia, Finland, Latvia and Sweden (Shima, Zólyomi, and Zaidi, 2008).

The concept of employing workers with disabilities on the 'contingent' basis has a long history and was developed following the acceptance among European citizens of the obligation to employ people with disabilities. A system of employment subsidies can operate alongside a quota system, e.g. in Germany, Poland and Czechia (Koza, 2015b). This aims to increase the effectiveness of quota systems by compensating for the higher costs of employing people with disabilities.

In practice, at least three variants to the quota system for employing people with disabilities can be identified in the regulations that have developed in various countries (Gundersen 2008). The first variant is based on the legal solutions imposing the obligation to employ a defined percentage of people with disabilities under pain of financial penalties, and their effective enforcement by the tax authorities, or other institutions to which the employer is obliged to pay the financial penalty. As a rule, monies from penalties for not employing the required percentage of people with disabilities are channelled to specially earmarked national or regional funds, as well as to local government budgets or to other institutions that deal with the financing and implementation of programmes for the employment and professional and social rehabilitation of people with disabilities. Such a variant is used in: France, Germany, Czechia, Japan, China and Poland.

The second variant of the quota system is similar to that presented above in terms of imposing a legal obligation to employ a defined percentage of people with disabilities. The difference is that there is a lack of sanctions or their enforcement in the case of the discovery of non-compliance with such an obligation by the employer, or the lack of an effective system for monitoring the applied obligation in practice. Such cases are found in: Spain, Portugal, the United Kingdom, and Thailand, and recently also in Italy (Koza, 2015b).

The third variant is based on the lack of a legal requirement to maintain parity between the employment of people with disabilities in proportion to the whole workforce, or the fact that the law does not clearly define the minimum rate of employment of people with disabilities, or does not define the deadline by which the required rate of employing people with disabilities should be achieved – such a solution is applied in the Netherlands (ILO, 2014).

The effectiveness of individual variants should be viewed through the realities of individual labour markets and the general macroeconomic situation in these countries. For example, research conducted for many years into the situation of people with disabilities on the Polish labour market has shown that the quota system used for supporting people with disabilities on the labour market is just one element of a broader state economic policy. Its effectiveness in terms of encouraging employers to employ people with disabilities depends to a large degree on the general macroeconomic situation and economic trends (*World Report on Disability*, 2011).

However, the use of the quota system is not a guarantee of full employment of people with disabilities. Despite the use of the obligation to employ people with disabilities, a considerable proportion of employers prefer to pay the financial penalties and not employ such people (Koza and Politaj, 2020). There are also cases where the regulations requiring employers to employ people with disabilities are not respected, or where the sanctions for not employing people with disabilities are not severe enough and do not encourage employers to make the effort to employ people with disabilities, despite the obligation resting on them to do so (Razlin and Roose, 2010; Zelderloo and Reynaert, 2007).

The structure of the Polish quota system in terms of the payment of financial penalties was introduced at the beginning of the 1990's¹, based on such systems operating previously in other countries. However, the Polish solutions can be counted among the most restrictive, both in terms of the subjective scope and the direct financial penalties used in the case of the rate of employment of people with disabilities not being reached. The severity and inevitability of the financial penalties were, amongst others, intended to force compliance with the approach among employers defined and expected by the legislator in terms of an increase in the number of employed people with disabilities. This was the result of the extremely difficult situation of people with disabilities on the labour market (a high unemployment rate and their worse socio-economic situation).

Currently, the legal regulations in terms of payments to the National Fund for the Rehabilitation of People with Disabilities (Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych – PFRON), within the scope of the Polish quota system, are contained in the bill of 27th August 1997 on professional and social rehabilitation and employment of people with disabilities (Bill of 27th August 2007). In light of these regulations, an employer who attains in a given month of employment the equivalent of at least 25 full-time employees and does not employ people with disabilities, or where the rate of employment of people with disabilities is lower than 6%, is required to make monthly payments. The amount payable to PFRON is calculated as 40.65% of the average salary multiplied by the number of employees corresponding to the difference between employment ensuring the achievement of the indicator of employing people with disabilities at 6%, and the actual number of the employed people with disabilities. The calculation of the payment is made using the average monthly salary in the national economy given by the President of the Central Statistical Office in the form of a communiqué

¹ The quota system in Poland came into force in practice from the moment of implementation of the provisions of the bill of the 9th May 1991 on the employment and professional rehabilitation of people with disabilities (Journal of Laws 1991, no. 46, point 201 with later amendments). It has been changed many times along with changes to the above legal act.

in the Administrative Journal of the Polish Republic ‘Monitor Polski’, regarding average remuneration. Therefore, the average monthly salary is key for calculating the level of the penalty. The change in the monthly salary in recent years is presented in Figure 1.

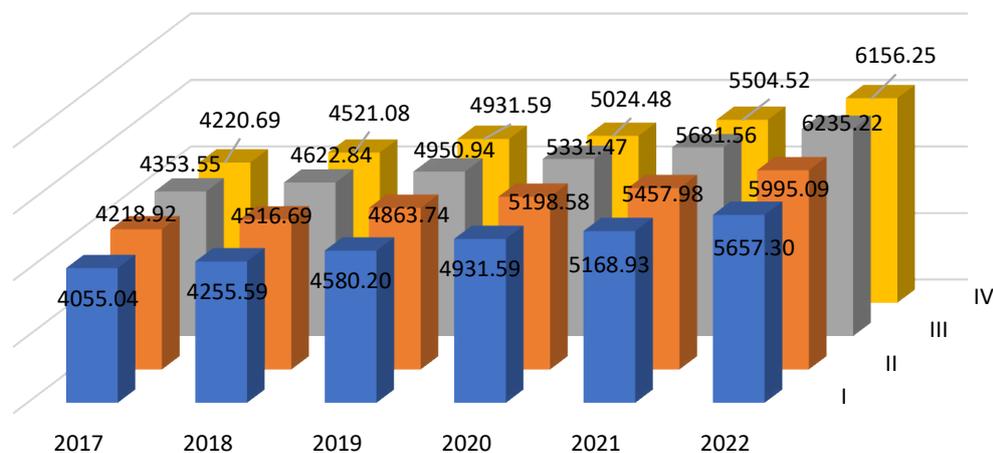


Fig. 1. Average monthly salary in 2017-2022 used for calculating payments to PFRON (quarterly – in PLN)

Source: own elaboration based on the (Administrative Journal of the Republic of Poland).

In the period from the first quarter of 2017 to the fourth quarter of 2022, the average monthly salary grew by almost half. Thus, employers obliged to pay penalties for not employing people with disabilities felt this increase in the form of appropriately higher penalties. While in 2017 they had to transfer to the PFRON account a monthly average² of 1712 PLN for every full-time position short of the legal rate for employing people with disabilities, in 2022, the level of this penalty was on average PLN 2433 (Figure 2).

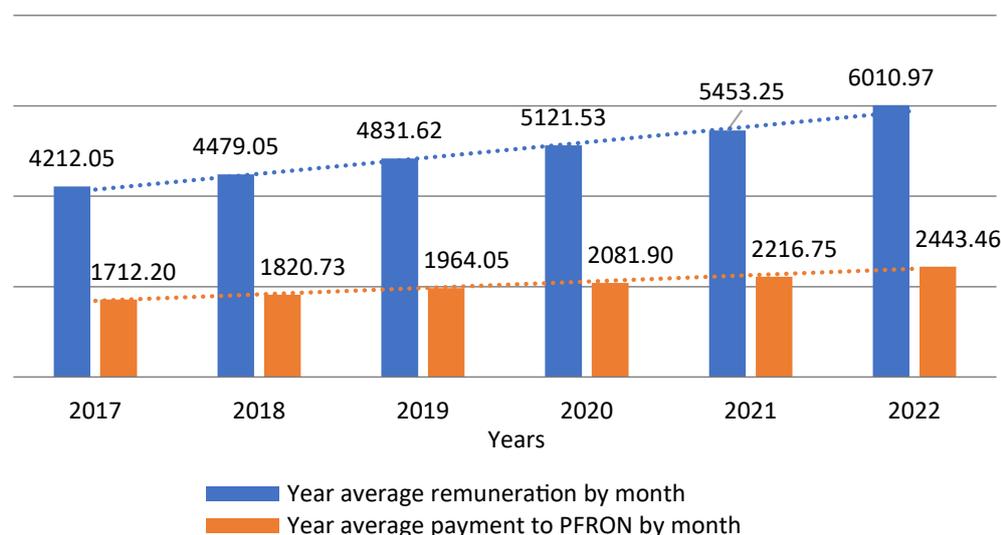


Fig. 2. Year average remuneration by month and year average payment of penalties to PFRON in the years 2017-2022 (in PLN)

Source: own calculations on the basis of data from Figure 1.

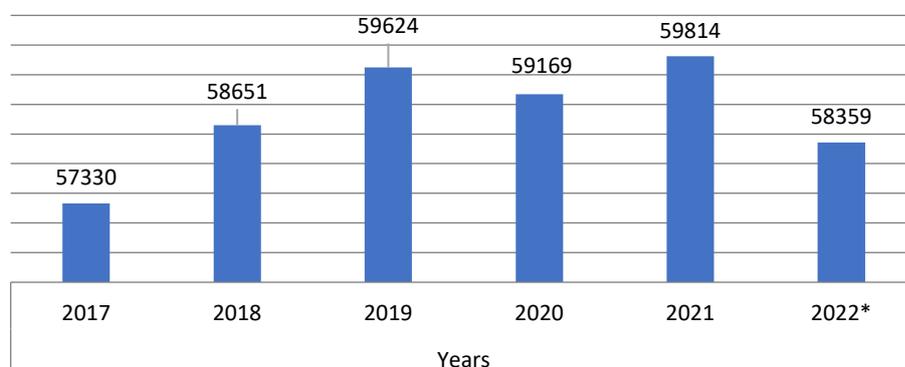
² The average monthly remuneration, calculated by adding together the remuneration from the four quarters and dividing it by four, and then multiplying this by the rate of 40.65%.

The gradual increase in salaries determining the level of penalties for not employing the required percentage of people with disabilities may be an important argument for fully complying with the employment of people with a certified disability (it is not important to what degree and with what ailments). However, apart from avoiding the above penalties, the decision to employ a worker with a certified disability may be based on several other considerations. Firstly, it may be based on the broader economic calculation – the relation between the benefits of the work carried out by a disabled employee and the liabilities related to their employment (mainly social and health insurance contributions). Secondly, to ensure the positive image of the company (in terms of its social responsibility of business), which actively participates in the process of preventing the marginalisation of people with health dysfunctionality. Thirdly, this may be based on the desire to increase the employment of people dedicated to the company, who conscientiously carry out their duties in the context of the particular labour laws applicable to them (including the right to a reduced working time for a person with a disability, which for people with a light disability cannot exceed 8 hours in any 24 and 40 hours per week, and for those with moderate or considerable disabilities up to 7 hours in any 24 and 35 hours per week, as well as the right of those most seriously affected to an additional leave of 10 working days and participation in a rehabilitation programme).

Employers are faced with the dilemma of whether to employ people with disabilities or to pay the monthly penalty to PFRON. They have to take into consideration the consequences of employing such people, which sometimes have a financial dimension (the need to adapt workstations and working conditions to the needs of people with disabilities), as well as an organisational dimension – eliminating architectural and communication barriers, and the increased scope of personnel issues and payroll related to settling payments to PFRON etc. For many employers this is a very difficult decision, as a considerable percentage of employers avoid employing people with disabilities and prefer to pay the monthly penalty rather than take on the burden of such employment.

3. Companies employing the equivalent of at least 25 full-time staff in Poland in 2017-2021 and in the first half of 2022

The data in the PFRON database on companies employing an equivalent of at least 25 staff shows that in the period 2017-2022, the number of companies that employed an equivalent of at least 25 staff and were obliged to achieve an indicator of 6% of the employment of people with disabilities, varied in the period under analysis between 57,300 in 2017 to over 59,800 in 2021 (Figure 3).



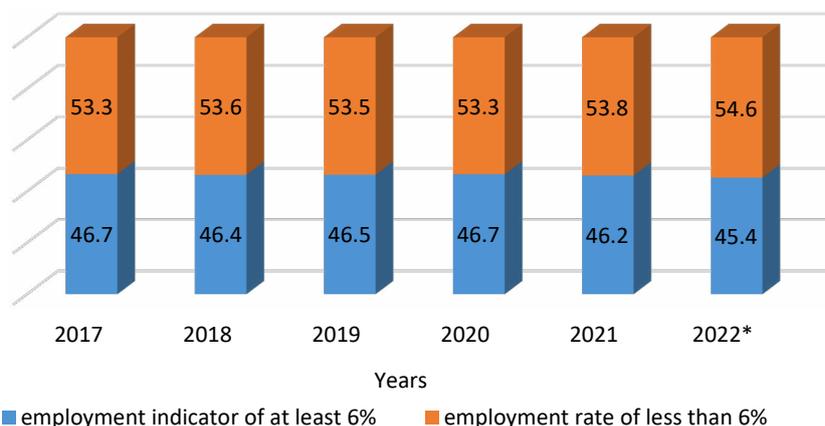
* average from the 1st half of the year

Fig. 3. Yearly average of number of companies employing at least 25 full-time staff according to PFRON in 2017-2022

Source: own calculations based on PFRON data.

The uniform upward trend in terms of the number of employers clearly stalled in 2020, and after a further increase in this number in 2021, in the next period (the first half of 2022) it showed a clear reversal.

Irrespective of the COVID-19 pandemic, in the entire period of analysis a majority of employers did not achieve the required 6% indicator of the employment of people with disabilities and thus obliged to make payments to PFRON (Figure 4).



* average for the first half of the year

Fig. 4. Yearly average for entities in the PFRON database employing the equivalent of at least 25 full-time staff in the years 2017-2022 (%)

Source: own calculations based on PFRON data.

The participation in the total number of companies employing at least 25 staff and obliged to achieve 6% of the employment of people with disabilities varied between 53.3% and 54.6%. During the pandemic this systematically increased, to reach the highest level in the entire study period in the first half of 2022. However, attention should be paid to the absolute values regarding employers not achieving the legal indicator for employing people with disabilities. In the period before the pandemic, the number of these employers systematically grew, similarly to the number of workers they employed, both those with and without disabilities (Table 1).

Table 1. Employers obliged to pay penalties to PFRON in 2017-2022 (yearly average data)

Details	Years					
	2017	2018	2019	2020	2021	2022*
Number of employers obliged to make payments	30555	31420	31903	31556	32191	31880
Overall number of full-time employees	5050252	5174631	5277522	5211272	5307195	5331684
Overall number of full-time employees with disabilities	71930	75293	79471	80165	82084	83422

* first half of the year

Source: PFRON data.

During the pandemic this uniform trend was halted and reversed. In the first year of the pandemic, the number of companies required to make payments dropped, as did the overall number of employees. However, these changes did not affect the employment of people with disabilities. In the following year of the pandemic, the number of companies rose again, as did the number of staff they employed,

including people with disabilities. In the first half of 2022, the number of employers paying penalties to PFRON dropped again, alongside a further increase in overall employment and in the employment of people with disabilities. The situation looks somewhat different when the absolute values are taken into account (Figure 5). This data showed that in the whole period of the analysis, there was a uniform growing trend in terms of the proportion of people with disabilities among all those employed by companies subject to making contributions to PFRON.

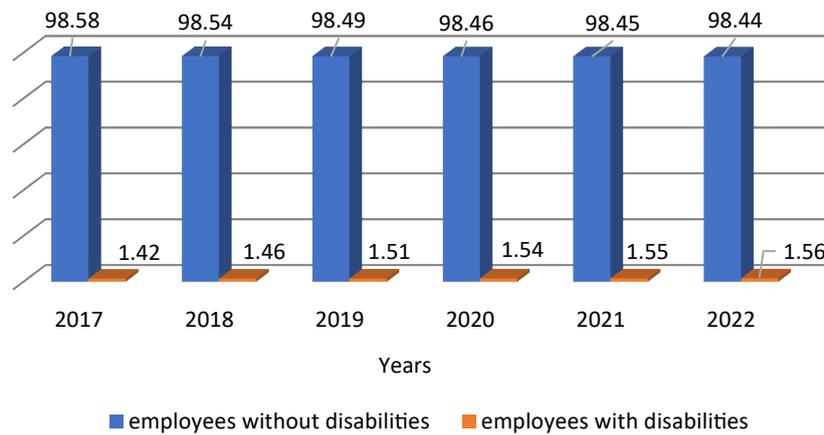
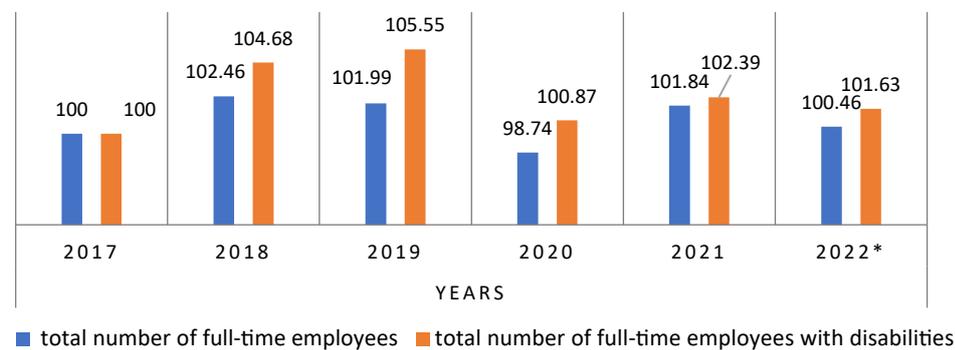


Fig. 5. Year average percentage of staff with and without disabilities employed by companies subject to making contributions to PFRON in 2017-2022 (%)

Source: own calculations based on data from Table 1.

In 2017, the yearly average of people with disabilities was 1.42% of the total number of employees, which was therefore 4.58% lower than that necessary to achieve the legally required percentage of the employment of people with disabilities. Six years later, in 2022 (average data from the two quarters of 2022), the average employer was 4.44% behind the level necessary to achieve the required indicator and thus avoid payments to PFRON; also of interest are the changes in overall employment and the employment of people with disabilities by companies obliged to make payments to PFRON (Figure 6).



* average data for the first two quarters

Fig. 6. Yearly average total of overall employment and the employment of people with disabilities by companies obliged to make payments to PFRON in 2017-2022 (%)

Source: own calculations based on data from Table 1.

In the period 2017-2022, in terms of overall employment, one can observe varied behaviour on the part of employers paying penalties to PFRON. In the year before the pandemic the employment

dynamic fluctuated around 102%, while in the same period this indicator for people with disabilities was almost 3% higher. However, during the pandemic there were notable changes in company staffing policies. In 2020, the annual overall employment dynamic was just below 97.8%, while the figure for the employment of people with disabilities was almost 101%. There was also a noticeable slowing down of the overall employment dynamic, including of the employment of people with disabilities. Meanwhile, the differences between the levels of this indicator with regard to overall employment and the employment of people with disabilities were not as significant as in previous years. Yet, companies continued to improve the rate of employment of people with disabilities as they increased employment overall, thus gradually avoiding the burden of financial penalties for not employing people with disabilities.

4. Conclusion

Employers in Poland, similarly to many countries around the world, found themselves in a very difficult economic situation caused by the COVID-19 pandemic. The shielding programmes introduced to help them, and intended to minimise the negative effects of the lockdown implemented as part of the action to prevent the spread of the pandemic, brought limited positive effects in the short term. However, publicly funded shielding programmes became a trigger for inflation, which was clearly seen in 2021-2022 in practically the whole of Europe and elsewhere. The effect was, amongst others, an increase of the minimum wage, and of average earnings, and a further upward spiral of prices.

This situation has become difficult for employers who, in the face of sudden rises in payroll costs, must look for savings, minimise costs and expenses, and optimise the use of human resources. One such area is reducing public contributions related to the failure to achieve the legal requirement of employing people with disabilities. This obligation rests on companies who employ the equivalent of 25 full-time staff and do not achieve the legal 6% rate of employment of people with disabilities. In theory, the monthly penalties imposed on such employers should be more severe, the higher is the average salary. Therefore, every increase to this base rate should, from the point of view of economics and cost optimisation, stimulate companies to employ an increasing number of people with disabilities.

The COVID-19 pandemic in many cases changed the staffing policies of employers and the way in which work was performed by employees. The general dynamic economic growth worldwide (including in Poland) in the period before the COVID-19 pandemic laid the foundations for a systematic increase in employment and growth in the entrepreneurial sector. Such a trend can also be observed among companies in Poland employing 25 or more staff. Here, a uniform pace in the increase of employment can be observed, both in the case of people with and without disabilities. However, there was clearly a greater dynamic in the employment of people with disabilities than of those without., with the difference even reaching 3.6% in 2019. During the pandemic, employers initially minimally reduced employment (the dynamic in 2020 was at 98.74% compared to 2019), while in later periods the growth in employment was not as impressive as in the pre-pandemic period. It is interesting, however, that throughout the whole of the pandemic there was a continuing increase in the employment of people with disabilities. In this way, companies attempted to gradually increase the employment of people with disabilities and reduce the burden of penalties paid to PFRON. This may indicate a certain effectiveness in the mechanism of financial penalties for not achieving the legal requirement of employing people with disabilities. The reduction in employment by companies during the pandemic was mainly with regard to staff without disabilities, and the decision to take on more workers was taken with the idea of avoiding payments to PFRON by employing people with disabilities, and thus increasing the percentage of such employees among the entire workforce. From this perspective, the research hypothesis posed in the introduction has been confirmed, as financial penalties for not achieving the legal requirement for employing people with disabilities have been shown to a certain degree to be a stimulant to the employment of people with disabilities, especially during the pandemic.

However, some employers were not able to keep up with the fast pace of increase in average remuneration and the subsequent increase in the base rate for penalties paid to PFRON. The sudden rise in inflation and salaries, especially in 2022, was so great that in that year there was a considerable drop in the number of companies obliged to make payments to PFRON, as well as the number of employers who achieved the legal employment requirement. Hence, it can be concluded that some companies moved into the shadow economy, some were divided into smaller entities exempt from payments (employing fewer than 25 full-time staff), while others were closed down. This may possibly be an indication of important and principally unfavourable changes in the future with regard to the employment of people with disabilities, as well as the situation on the labour market as a whole.

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Wpłaty na Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych jako stymulanta zatrudnienia osób z niepełnosprawnością w dobie pandemii COVID-19

Streszczenie: Celem opracowania jest ustalenie zmian zachodzących w zatrudnieniu osób z niepełnosprawnością w okresie pandemii i skuteczności funkcjonowania systemu kar finansowych dla pracodawców w przypadku niewywiązywania się z ustawowych obowiązków zatrudniania osób z niepełnosprawnością jako stymulanty zatrudnienia takich osób.

Zakres czasowy badań ustalono na lata 2017-2021 oraz pierwsze półrocze 2022 roku. W artykule zastosowano następujące metody badawcze o charakterze ogólnym: metodę analizy i krytyki piśmiennictwa źródłowego, metodę indukcyjną i dedukcyjną oraz analizę i syntezę. Ponadto zastosowano też metody szczegółowe: opisową, monograficzną oraz badania dokumentów.

Hipoteza badawcza: nakładane na pracodawców kary finansowe z tytułu niezatrudniania wymaganego ustawowo odsetka osób z niepełnosprawnością były bardziej skuteczne w zakresie stymulowania pracodawców do poprawy wskaźnika zatrudnienia OzN w okresie pandemii COVID-19 niż przed jej wybuchem. W świetle przeprowadzonych badań i studiów literaturowych dostrzeżono skuteczność kar jako stymulanty do zatrudnienia osób z niepełnosprawnością w szczególnie trudnych warunkach makroekonomicznych.

Słowa kluczowe: osoby z niepełnosprawnością , zatrudnienie, system kwotowy.
